

STATE OF CALIFORNIA

**CALIFORNIA POLLUTION CONTROL
FINANCING AUTHORITY**

915 Capitol Mall, Room 457
Sacramento, CA 95814
Telephone: (916) 654-5610
Telecopier: (916) 657-4821



MEMBERS:
Phil Angelides, Chair
State Treasurer

Steve Westly
State Controller

Michael Genest, Director
Director of Finance

EXECUTIVE DIRECTOR:
Kirsten Snow Spalding

AMENDED NOTICE
REQUEST FOR PROPOSALS
Strategic Partners For
California Recycle Underutilized Sites Program
(CALReUSE Program)
RFP Number CPCFA02-06
Extended Submission Deadline

August 31, 2006

You are invited to review and respond to this Request for Proposals (RFP), entitled Strategic Partner for the CALReUSE Program (RFP Number CPCFA02-06). The CALReUSE Program addresses an existing gap in the expertise of and available funding for brownfield site assessment and other predevelopment costs associated with regulatory and remediation processes. This program targets brownfield sites located in distressed urban and rural communities and urban in-fill areas with a demonstrated need for redevelopment.

The proposed contract amount is \$0.00 dollars. Public agencies selected will agree to perform program tasks as outlined in the Authority's regulations in exchange for CALReUSE funding to benefit their communities

Interested local government and private entities may apply. CPCFA will contract with private and local government entities to administer the CALReUSE Program in their jurisdictions. Entities selected to serve as Strategic Partners for the CALReUSE will agree to prioritize and select projects, approve loans, disburse loan funds, and administer the program their respective jurisdictions.

If you are interested in submitting a proposal, you may download a copy of the RFP from the CALReUSE Program website located at <http://www.treasurer.ca.gov/cpcfa/> or you may contact the person listed below to obtain a hard copy of the RFP.

Dona Yee
Associate Treasury Program Officer
California Pollution Control Financing Authority
915 Capitol, Room 457
(916) 653-6217
dyee@treasurer.ca.gov

Please note that no *verbal* information given will be binding upon the State unless such information is issued in writing as an official addendum.

The State Treasurer's Office will not contract or otherwise do business -- absent a compelling public interest -- with publicly-held U.S. expatriate corporations. This policy is designed to ensure that companies with which the State Treasurer's Office does business meet threshold standards of corporate accountability.

Proposers must certify that they have authority to contract with the state; local government agencies must provide proof of authority via a resolution or other applicable documentation with the proposal. Note that all agreements entered into with the State of California will include by reference General Terms and Conditions (GTC-306) and Contractor Certification Clauses (CCC-1005) that may be viewed and downloaded at www.ols.dgs.ca.gov/standard+language/default.htm.

NEW DEADLINE FOR SUBMISSION OF PROPOSALS: Friday, September 29, 2006 at 4:30 P.M.

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**REQUEST FOR PROPOSALS
FOR STRATEGIC PARTNERS FOR THE
CALReUSE PROGRAM**

RFP Number CPCFA02-06

July 28, 2006

You are invited to review and respond to this Request for Proposals (RFP), entitled Strategic Partners for the CALReUSE Program (RFP Number CPCFA02-06). The California Pollution Control Financing Authority (CPCFA) is seeking to retain private and local government entities to apply as a "Strategic Partner" for the CALReUSE Program. Interested private and local government entities are invited to submit proposals in response to the attached RFP. In submitting your RFP, you must comply with these instructions.

Note that all agreements entered into with the State of California will include by reference General Terms and Conditions and Contractor Certification Clauses that may be viewed and downloaded at Internet site www.ols.dgs.ca.gov/standard+language. If you do not have Internet access, a hard copy can be provided by contacting the person listed below.

In the opinion of CPCFA, this RFP is complete and without need of explanation. However, if you have questions, or should you need any clarifying information, the contact person for this RFP is:

Dona Yee
Associate Treasury Program Officer
California Pollution Control Financing Authority
(916) 653-6217

Please note that no *verbal* information given will be binding upon the State unless such information is issued in writing as an official addendum.

Luis Hermosillo, Sr
Contract Administrator

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A) Purpose and Description of Services

1) The Program

Legislation enacted in 2000 (SB 1986 (Costa)), Ch. 915, Stats. 2000) authorizes the California Pollution Control Financing Authority ("CPCFA" or the "Authority") to encourage the remediation and redevelopment of brownfield sites by providing forgivable loans for site assessment, technical assistance, and other specified costs. Pursuant to this legislation, CPCFA implemented the CALReUSE Program to target brownfield sites located in distressed urban and rural communities and urban in-fill areas with a demonstrated need for redevelopment. This program addresses an existing gap in the expertise of and available funding for brownfield site assessment and other predevelopment costs associated with regulatory and remediation processes.

CPCFA uses a collaborative approach of engaging Strategic Partners to administer CALReUSE. Within program guidelines established by CPCFA, Strategic Partners select projects, distribute loan funds, and administer and market the program. By statute CPCFA is authorized to work in conjunction with public and private sector entities, including but not limited to cities, counties, school districts, redevelopment agencies, financial institutions, and for-profit and non-profit development entities. Because contamination issues add complexity to project developments, Strategic Partners should have a demonstrated understanding of the development process, the environmental assessment process, remediation, the regulatory process, and loan administration. A Strategic Partner need not have all of the requisite skills within its organization but should be capable of assembling a team with such skills.

The Authority is requesting proposals from private and governmental entities to become "Strategic Partners" in the CALReUSE Program. CALReUSE is structured such that selected governmental or private entities ("Strategic Partners") work with CPCFA to select projects, distribute loan funds, and administer the program. Local governments that are Strategic Partners will administer the program in their respective areas, as they are in the best position to assess local community needs. Strategic Partners on the state or regional level will administer the program for areas that are not served by local government Strategic Partners.

Strategic Partners do not receive payment from CPCFA for their participation. Governmental entities become Strategic Partners as a method of addressing brownfields in their respective jurisdictions. A nonprofit entity that is a Strategic Partner participates in the program to further the mission of taking steps to remediate ground pollution. A for-profit private entity may have an interest in the program as a way of attracting potential borrowers or encouraging development of brownfield sites.

Local government Strategic Partners currently in the program include Oakland, San Diego and Emeryville that have been allocated a total of \$2.3 million for projects in their communities. CALReUSE has one private sector Strategic Partner, a joint venture between the California Environmental Redevelopment Fund and the California Center for Land Recycling (CERF/CCLR). All of these Strategic Partners are eligible to respond to this RFP and, if selected, may enter into new contracts with the Authority.

The term of the Agreement will be for a two-year period. In its discretion, the Authority may extend the Agreement with non-governmental entities for an additional one-year period for a total contract

term of three years. If the Agreement is with a governmental entity, the Authority may extend the Agreement on an annual basis for a total contract term of five years. The Authority may award contracts to more than one proposer depending upon the content of the proposals received and the needs of the program. Attached, as Section F, is a proposed sample contract that will be the result of this RFP. It includes the STD 213 Standard Agreement and other standard agreement provisions to which a Strategic Partner will be bound.

2) Overview of the Authority

CPCFA was established in 1972 to provide California businesses with a reasonable method of financing pollution control facilities and to foster compliance with regulatory environmental standards. Over the last thirty years, CPCFA has evolved to meet California's needs by supporting the latest technologies in the solid waste industry through its Pollution Control Tax-Exempt Bond Financing Program (Bond Program), supporting small businesses through its California Capital Access Program (CalCAP), encouraging the reuse and redevelopment of brownfields through the California Recycle Underutilized Sites Program (CalReUSE), and providing financial assistance to cities and counties in their community planning and development efforts through the Sustainable Communities Grant and Loan Program (SCGL). The Authorities enabling legislation is set forth in the California Pollution Control Financing Authority Act ("CPCFA Act"), Division 27 of the Health and Safety Code, commencing with Section 44500).

3) Scope of Services

a) Matching Funds – A Strategic Partner will be required to provide 25 percent of matching funds to participating borrowers. Of this amount, a 15 percent hard cash match will be required at each loan closing, and may include borrower match contributions or public funds disbursed at the local level. Strategic Partners may provide up to a maximum 10 percent non-cash match consisting of administrative costs.

b) Loan Administration – A Strategic Partner will be required to administer, service and determine eligibility for loans made by CPCFA to participating borrowers. The minimum interest rate will be based on the earnings of the State's Pooled Money Investment Account. The maximum loan amount is \$125,000 per site. The maximum loan term is 36 months.

c) Technical Assistance – A Strategic Partner will be required to provide technical assistance to participating borrowers on brownfield site assessment and related regulatory requirements.

d) Marketing – A Strategic Partner will be required to disseminate information regarding the program to targeted property owners, developers and existing related programs to encourage borrower participation in the program. Strategic Partners may assess a one-time fee from each borrower for marketing costs.

e) Project Criteria – Strategic Partners will be required to place priority on projects located in distressed neighborhoods within existing urban and rural communities, and projects located in urban infill areas with a demonstrated need for redevelopment. In addition, a goal of the program is to assist projects that meet the following criteria:

1. Sites that have potential for economically beneficially reuse but are not being developed due to lack of information centered around real or perceived contamination, uncertainty about clean-up costs and timeframes, and the regulatory process.
2. Projects that will result in the clean up of environmental contamination thereby protecting the public health and safety of California's citizens.
3. Projects that will most likely move forward in the development process if the site is proven economically feasible.
4. Projects supported by a quality development entity with a proven track record.

B) Minimum Qualifications for Proposers

A non-governmental proposer shall be licensed to do business in California and shall obtain at all license(s) and permit(s) required by law for accomplishing any work required in connection with this contract.

If a non-governmental proposer is located within the State of California, a business license from the city/county in which the proposer is headquartered is necessary. If the non-governmental proposer is a corporation, a copy of the incorporation documents/letter from the Secretary of State's Office may be submitted. If a non-governmental proposer is located outside the State of California, the proposer shall submit a copy of its business license or incorporation papers for its respective state showing that the proposer is in good standing in that state.

C) Request for Proposals and Information

1) Key Action Dates

It is recognized that time is of the essence. All Proposers are hereby advised of the following schedule and will be expected to adhere to the required dates and times:

| <u>Date</u> | <u>Event</u> |
|-------------------------|---|
| July 28, 2005 | RFP mailed to prospective Proposers. |
| September 6, 2006 | <u>Proposals are due</u> and must be received at the CPCFA office at 915 Capitol Mall, Room 457, Sacramento, CA 95814, by 4:30 p.m. |
| September 12 – 15, 2006 | Evaluation and selection of Strategic Partners by evaluation committee. Determination of responsive proposals. |
| October 6, 2006 | Selection of Strategic Partner(s) scheduled on the Authority's agenda for approval. |
| October 24, 2006 | Post Notice of Intent to Award |
| November 14, 2006 | Contract mailed to winning agencies for execution. |
| November 20, 2006 | Executed contract due from agencies. CPCFA executes contracts. |
| November 27, 2006 | Contract to the Department of General |

Services (DGS) for review and approval.

December 15, 2006

DGS approval due

January 1, 2007

Contract Commencement (pending approval
by DGS)

2) Content of Proposals and Format

This Request for Proposals, the evaluation of the proposals and the award of any resulting agreement will be governed generally by the rules of this section and applicable State policy. Questions in this Section are intended to demonstrate the Proposer's qualifications. Points will be awarded as set forth in Section (C) (4) of this RFP entitled "Evaluation Process". Questions should be answered for each relevant partner or subcontractor to the extent applicable.

a) Explain the Proposer's interest in the CALReUSE program.

b) Describe relevant experience demonstrating the following:

1. An understanding of the community economic development process.
2. Knowledge of real estate development project economics.
3. An understanding of the environmental assessment and remediation process.
4. The ability to navigate environmental regulatory processes and issues related to real estate development.
5. The ability to deal with site access issues on sites not owned by the development entity.
6. The ability to administer, service and determine eligibility for loans made by CPCFA to participating borrowers including: evaluation of applications, execution of loan agreements, disbursement of funds and collection of principle and interest.

c) Demonstrate the Proposer's capacity to provide technical assistance and describe the Proposer's overall strategy, with knowledge of markets and neighborhoods, encouraging brownfield site assessment and development

d) Detail the proposer's capacity to provide matching funds and services and list all available funds and resources, any pertinent restrictions, and the amount available.

e) Provide a marketing strategy to disseminate information regarding the program to targeted property owners, developers and existing related programs to encourage borrower participation in the program. Strategic Partners *may* assess a one-time fee from each borrower for marketing costs. If a fee will be assessed, provide details for the rationale and amount of the fee to be charged.

f) All proposers must complete Attachment 6 -- regarding the key personnel (include partners, associates, subcontractors) who will be directly involved in providing the services outlined in this RFP. Attach detailed resumes of all key personnel, including staff of subcontractors, if any, that will be directly involved in providing the services and include a discussion of your previous experience, if any, working with each subcontractor.

3) Submission of Proposals

- a) Proposals should provide straightforward and concise descriptions of the proposer's ability to satisfy the requirements of this RFP. The proposals must be complete and accurate. Omissions, inaccuracies or misstatements will be sufficient cause for rejection of a proposal.
- b) The proposal package should be prepared in the least expensive method.
- c) All proposals must be submitted under sealed cover and sent to CPCFA by **4:30 P.M. on Wednesday, September 6, 2006** as shown in Section C, RFP Requirements and Information. Proposals received after this date and time will not be considered. A postmark **will not** be accepted as meeting the delivery time if received by CPCFA after the submission deadline.
- d) A minimum of one (1) original and five (5) additional copies of the proposal must be submitted.
- e) The original proposal must be marked "**ORIGINAL COPY**". All documents contained in the original proposal package must have original signatures and must be signed by a person who is authorized to bind the proposer. All additional proposal sets may contain photocopies of the original package.
- f) The proposal envelopes must be plainly marked with the RFP number and title, the proposer's name and address, and must be marked with "**DO NOT OPEN**", as shown in the following example:

Ms. Eileen Marxen
California Pollution Control Financing Authority
Request for Proposal – CALReUSE Strategic Partner
RFP # CPCFA02-06

DO NOT OPEN

If the proposal is made under a fictitious name or business title, the actual legal name of proposer must be provided. Proposals not submitted under sealed cover and marked as indicated may be rejected.

- g) All proposals shall include the documents identified in Section E, Required Attachment Checklist. Proposals not including the proper "required attachments" shall be deemed non-responsive. A non-responsive proposal is one that does not meet the basic proposal requirements.
- h) Mail or deliver proposals to the following address:

Ms. Eileen Marxen
California Pollution Control Financing Authority
915 Capitol Mall, Room 457
Sacramento, CA 95814
Request for Proposals – CALReUSE Strategic Partner
RFP #CPCFA02-06

- i) Proposals must be submitted for the performance of all the services described herein. Deviations from the work specifications will not be considered and may cause a proposal to be rejected.
- j) A proposal may be rejected if it is conditional or incomplete, or if it contains any alterations of form or other irregularities of any kind. The State may reject any or all proposal and may waive any immaterial deviation in a proposal. The State's waiver of immaterial deviation shall in no way modify the RFP document or excuse the proposer from full compliance with all requirements if awarded the agreement.
- k) Costs incurred for developing the proposal and in anticipation of award of the agreement are entirely the responsibility of the proposer and shall not be charged to the State of California.
- l) An individual who is authorized to bind the proposing firm contractually shall sign the Attachment 2, Proposal/Proposer Certification Sheet. The signature must indicate the title or position that the individual holds in the firm. An unsigned proposal may be rejected.
- m) A proposer may modify a proposal after its submission by withdrawing its original proposal and resubmitting a new proposal prior to the proposal submission deadline as set forth in the Key Action Dates. Proposal modifications offered in any other manner, oral or written, will not be considered.
- n) A proposer may withdraw its proposal by submitting a written withdrawal request to the State, signed by the proposer or an authorized agent in accordance with h) above. A proposer may thereafter submit a new proposal prior to the RFP submission deadline. The proposal may not be withdrawn without cause subsequent to RFP submission deadline.
- o) CPCFA may modify the RFP prior to the date fixed for submission of proposals by the issuance of an addendum to all parties who received a RFP package.
- p) CPCFA reserves the right to reject all proposals. CPCFA is not required to award an agreement.
- q) Before submitting a response to this solicitation, proposers should review, correct all errors and confirm compliance with the RFP requirements.
- r) The State's General Terms and Conditions (GTC) are not negotiable.
- s) No oral understanding or agreement shall be binding on either party

4) Evaluation Process

- a) Each proposal will be date-and-time stamped as it is received; additionally, it will be verified that each proposal arrived properly sealed. At the time of proposal opening, each proposal will be checked for the presence or absence of required information in conformance with the submission requirements of this RFP.
- b) If during the evaluation process the Authority is unable to assure itself of the proposer's ability to perform the services described in this RFP, the Authority reserves the right but is not required to

request any additional information that it deems necessary to determine the proposer's qualifications.

- c) Proposals that contain false or misleading statements, or which provide references which do not support an attribute or condition claimed by the proposer, may be rejected.
- d) The Authority will evaluate only those proposals that meet the minimum qualifications in Section B. The proposals that meet the minimum qualifications will be evaluated and scored according to the criteria indicated below. A minimum of 80 points must be achieved to be considered responsive. (A responsive proposal is one which meets or exceeds the requirements stated in this RFP). The selection will be made by an evaluation committee of the Authority on the basis of the following weighted factors

| <u>Rating/Scoring Criteria</u> | <u>Maximum Possible Points</u> |
|---|--------------------------------|
| 1. Demonstrated ability and capability of the proposer and its personnel to provide the services requested. | 30 points |
| 2. Experience and qualifications of the proposer and its personnel in providing the services. | 20 points |
| 3. Marketing strategy. | 20 points |
| 4. (a) Capacity to provide matching funds and services, and (b) Administration and loan fees to be charged to borrowers, if any. | 30 points |
| Maximum Total Possible Points | <u>100 points</u> |
| Minimum Total Points for proposal to be considered responsive | 80 points |

The Authority reserves the right to request an interview with, and additional information from, proposers prior to final selection of a Strategic Partner(s).

5) Award and Protest

- a) Notice of the proposed award shall be posted in a public place in the office of the California Pollution Control Financing Authority, 915 Capitol Mall, Room 457, Sacramento, CA 95814, for five (5) working days prior to awarding the agreement.
- b) If any proposer, prior to the award of agreement, files a protest with the California Pollution Control Financing Authority and the Department of General Services, Office of Legal Services, 707 Third Street, 7th Floor, Suite 7-330, West Sacramento, CA 95605, on the grounds that the (protesting) proposer would have been awarded the contract had the agency correctly applied the evaluation standard in the RFP, or if the agency followed the evaluation and scoring methods in

the RFP, the agreement shall not be awarded until either the protest has been withdrawn or the Department of General Services has decided the matter. It is suggested that you submit any protest by certified or registered mail.

- c) Within five (5) days after filing the initial protest, the protesting proposer shall file with the Department of General Services, Office of Legal Services and the California Pollution Control Financing Authority a detailed statement specifying the grounds for the protest.
- d) Upon resolution of the protest and award of the agreement, nongovernmental Strategic Partners must complete and submit to the awarding agency the Payee Data Record (STD 204) to determine if the Contractor is subject to state income tax withholding pursuant to California Revenue and Taxation Code Sections 18662 and 26131. This form can be found on the Internet at www.osp.dgs.ca.gov under the heading FORMS MANAGEMENT CENTER.
- e) Upon resolution of the protest and award of the agreement, nongovernmental Strategic Partners must sign and submit to the awarding agency, page one (1) of the Contractor Certification Clauses (CCC-1.005), included as Attachment 4.

6) Disposition of Proposals

- a) Upon proposal opening, all documents submitted in response to this RFP will become the property of the State of California, and will be regarded as public records under the California Public Records Act (Government Code Section 6250 et seq.) and subject to review by the public. The State cannot prevent the disclosure of public documents. However, the contents of all proposals shall remain confidential until the "Notice of Intent to Award" is posted.
- b) Proposal packages may be returned only at the proposer's expense, unless such expense is waived by the awarding agency.

7) Agreement Execution and Performance

- a) Service shall start not later than the express date set by CPCFA and the Strategic Partner, after all approvals have been obtained and the agreement is fully executed. Should the Strategic Partner fail to commence work at the agreed upon time, CPCFA, upon five (5) days written notice, reserves the right to terminate the agreement.

E) Preference Programs

1) Disabled Veteran Business Enterprise (DVBE)

The DVBE requirements for this RFP have been waived.

2) Small Business Enterprise (SBE)

A five percent (5%) preference will be applied to certified small businesses submitting bids for this RFP. The 5% preference is used only for computation purposes to determine the winning Bidder and does not alter the amounts of the resulting contract. Once each proposal has been scored, if the highest scored proposal is from a non-certified small business or microbusiness, then 5% of the highest scoring proposal is added to the total "earned" points for each proposal submitted by a certified small business. These final numbers, with the 5% included, are then used to determine the highest scoring proposal.

A five percent (5%) bid preference is available to a non-small business claiming twenty-five percent (25%) California certified small business subcontractor participation. If claiming the non-small business subcontractor preference, the bid response must include a list of the small business(es) with which you commit to subcontract in an amount of at least twenty-five percent (25%) of the net bid price with one or more California certified small businesses. Each listed certified small business must perform a "commercially useful function" in the performance of the contract as defined in Government Code Section 14837 (d)(4).

The required list of California certified small business subcontractors must be attached to the bid response and must include the following: 1) subcontractor name, 2) address, 3) phone number, 4) a description of the work to be performed and/or products supplied, 5) and the dollar amount or percentage of the net bid price (as specified in the solicitation) per subcontractor.

Bidders claiming the five percent (5%) preference must commit to subcontract for at least twenty-five percent (25%) of the net bid price with one or more California certified small businesses. Completed certification applications and required support documents must be submitted to the Office of Small Business and DVBE Certification (OSDC) no later than 4:30 pm on the bid due date, and the OSDC must be able to approve the application as submitted.

Questions regarding the small business certification or preference approval should be directed to the OSDC at (916) 375-4940 or can be found at the website www.pd.dgs.ca.gov/smbus.

E) Required Attachments

For your proposal to be considered responsive, all required attachments must be completed and included with the RFP by dates and times shown in Section C, RFP Requirements and Information, Item 1, Key Action Dates.

Attachment 1 – Required Attachment Check List

Attachment 2 – Proposal/Proposer Certification Sheet

Attachment 3 – Proposer References

Attachment 4 – Contractor Certification Clauses (CCC-1005)

Attachment 5 – Payee Data Record (STD 204)

Attachment 6 – Key Personnel and Experience

Section E
REQUIRED ATTACHMENTS

ATTACHMENT 1

REQUIRED ATTACHMENT CHECK LIST

A complete proposal or proposal package will consist of the items identified below. Complete this checklist to confirm the items in your proposal. Place a check mark or "X" next to each item that you are submitting to the State. For your proposal to be responsive, all required attachments must be returned. This checklist should be returned with your proposal package also.

| <u>Attachment</u> | <u>Attachment Name/Description</u> |
|--------------------|---|
| _____ Attachment 1 | Required Attachment Check List |
| _____ Attachment 2 | Proposal/Proposer Certification Sheet |
| _____ Attachment 3 | Proposer References |
| _____ Attachment 4 | Contractor Certification Clauses (CCC-1005) |
| _____ Attachment 5 | Payee Data Record (STD 204) |
| _____ Attachment 6 | Key Personnel & Experience |

ATTACHMENT 2

PROPOSAL/PROPOSER CERTIFICATION SHEET

This Proposal/Proposer Certification Sheet must be signed and returned along with all the "required attachments" as an entire package in duplicate with original signatures. The proposal must be transmitted in a sealed envelope in accordance with RFP instructions.

Do not return Section C, Proposal Requirements and Information (pages 3 through 11) nor the "Sample Agreement" at the end of this RFP.

For RFP Primary Only:

- A. Our all-inclusive cost proposal is submitted in a sealed envelope marked "Cost Proposal - Do Not Open".
- B. Place all required attachments behind this certification sheet.
- C. I have read and understand the DVBE Participation requirements and have included documentation demonstrating that I have met the participation goals or have made a good faith effort.
- D. The signature affixed hereon and dated certifies compliance with all the requirements of this proposal document. The signature below authorizes the verification of this certification.

An Unsigned Proposal/Proposer Certification Sheet May Be Cause For Rejection

| | | |
|---|---|--|
| 1. Company Name | 2. Telephone Number () | 2a. Fax Number () |
| 3. Address | | |
| Indicate your organization type: | | |
| 4. <input type="checkbox"/> Sole Proprietorship | 5. <input type="checkbox"/> Partnership | 6. <input type="checkbox"/> Corporation |
| Indicate the applicable employee and/or corporation number: | | |
| 7. Federal Employee ID No. (FEIN) | 8. California Corporation No. | |
| 9. Indicate applicable license and/or certification information: | | |
| 10. Proposer's Name (Print) | | 11. Title |
| 12. Signature | | 13. Date |
| 14. Are you certified with the Department of General Services, Office of Small Business Certification and Resources (OSBCR) as: | | |
| a. California Small Business Enterprise Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, enter certification number: _____ | | b. Disabled Veteran Business Enterprise Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, enter your service code below: _____ |
| NOTE: A copy of your Certification is required to be included if either of the above items is checked "Yes". Date application was submitted to OSBCR, if an application is pending: _____ | | |

Completion Instructions for Proposal/Proposer Certification Sheet

Complete the numbered items on the
Proposal/Proposer Certification Sheet by following the instructions below.

| Item Numbers | Instructions |
|------------------|--|
| 1, 2, 2a, 3 | Must be completed. These items are self-explanatory. |
| 4 | Check if your firm is a sole proprietorship. A sole proprietorship is a form of business in which one person owns all the assets of the business in contrast to a partnership and corporation. The sole proprietor is solely liable for all the debts of the business. |
| 5 | Check if your firm is a partnership. A partnership is a voluntary agreement between two or more competent persons to place their money, effects, labor, and skill, or some or all of them in lawful commerce or business, with the understanding that there shall be a proportional sharing of the profits and losses between them. An association of two or more persons to carry on, as co-owners, a business for profit. |
| 6 | Check if your firm is a corporation. A corporation is an artificial person or legal entity created by or under the authority of the laws of a state or nation, composed, in some rare instances, of a single person and his successors, being the incumbents of a particular office, but ordinarily consisting of an association of numerous individuals. |
| 7 | Enter your federal employee tax identification number. |
| 8 | Enter your corporation number assigned by the California Secretary of State's Office. This information is used for checking if a corporation is in good standing and qualified to conduct business in California. |
| 9 | Complete, if applicable, by indicating the type of license and/or certification that your firm possesses and that is required for the type of services being procured. |
| 10,11 12, 13, | Must be completed. These items are self-explanatory. |
| 14 | If certified as a California Small Business, place a check in the "yes" box, and enter your certification number on the line. If certified as a Disabled Veterans Business Enterprise, place a check in the "Yes" box and enter your service code on the line. If you are not certified to one or both, place a check in the "No" box. If your certification is pending, enter the date your application was submitted to OSBCR. |

ATTACHMENT 3

PROPOSER REFERENCES

Submission of this attachment is mandatory. Failure to complete and return this attachment with your proposal will cause your proposal to be rejected and deemed nonresponsive.

List below five references of similar types of services performed within the last five years. If five references cannot be provided, please explain why on an attached sheet of paper.

REFERENCE 1

| | | | |
|---------------------------------------|------|--------------------------|----------|
| Name of Firm | | | |
| Street Address | City | State | Zip Code |
| Contact Person | | Telephone Number | |
| Dates of Service | | Value or Cost of Service | |
| Brief Description of Service Provided | | | |

REFERENCE 2

| | | | |
|---------------------------------------|------|--------------------------|----------|
| Name of Firm | | | |
| Street Address | City | State | Zip Code |
| Contact Person | | Telephone Number | |
| Dates of Service | | Value or Cost of Service | |
| Brief Description of Service Provided | | | |

REFERENCE 3

| | | | |
|---------------------------------------|------|--------------------------|----------|
| Name of Firm | | | |
| Street Address | City | State | Zip Code |
| Contact Person | | Telephone Number | |
| Dates of Service | | Value or Cost of Service | |
| Brief Description of Service Provided | | | |

REFERENCE 4

| | | | |
|---------------------------------------|------|--------------------------|----------|
| Name of Firm | | | |
| Street Address | City | State | Zip Code |
| Contact Person | | Telephone Number | |
| Dates of Service | | Value or Cost of Service | |
| Brief Description of Service Provided | | | |

REFERENCE 5

| | | | |
|---------------------------------------|------|--------------------------|----------|
| Name of Firm | | | |
| Street Address | City | State | Zip Code |
| Contact Person | | Telephone Number | |
| Dates of Service | | Value or Cost of Service | |
| Brief Description of Service Provided | | | |

ATTACHMENT 4

CCC-1005

CERTIFICATION

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind the prospective Contractor to the clause(s) listed below. This certification is made under the laws of the State of California.

| | | |
|---|----------------------------------|--------------------------|
| <i>Contractor/Bidder Firm Name (Printed)</i> | | <i>Federal ID Number</i> |
| <i>By (Authorized Signature)</i> | | |
| <i>Printed Name and Title of Person Signing</i> | | |
| <i>Date Executed</i> | <i>Executed in the County of</i> | |

CONTRACTOR CERTIFICATION CLAUSES

1. **STATEMENT OF COMPLIANCE:** Contractor has, unless exempted, complied with the nondiscrimination program requirements. (Gov. Code §12990 (a-f) and CCR, Title 2, Section 8103) (Not applicable to public entities.)

2. **DRUG-FREE WORKPLACE REQUIREMENTS:** Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:

a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.

b. Establish a Drug-Free Awareness Program to inform employees about:

- 1) the dangers of drug abuse in the workplace;
- 2) the person's or organization's policy of maintaining a drug-free workplace;
- 3) any available counseling, rehabilitation and employee assistance programs; and,
- 4) penalties that may be imposed upon employees for drug abuse violations.

c. Every employee who works on the proposed Agreement will:

- 1) receive a copy of the company's drug-free workplace policy statement; and,
- 2) agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Contractor may be ineligible for award of any future State agreements if the department determines that any of the following has occurred: the Contractor has made false certification, or violated the certification by failing to carry out the requirements as noted above. (Gov. Code §8350 et seq.)

3. NATIONAL LABOR RELATIONS BOARD CERTIFICATION: Contractor certifies that no more than one (1) final unappealable finding of contempt of court by a Federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a Federal court, which orders Contractor to comply with an order of the National Labor Relations Board. (Pub. Contract Code §10296) (Not applicable to public entities.)

4. CONTRACTS FOR LEGAL SERVICES \$50,000 OR MORE- PRO BONO REQUIREMENT: Contractor hereby certifies that contractor will comply with the requirements of Section 6072 of the Business and Professions Code, effective January 1, 2003.

Contractor agrees to make a good faith effort to provide a minimum number of hours of pro bono legal services during each year of the contract equal to the lessor of 30 multiplied by the number of full time attorneys in the firm's offices in the State, with the number of hours prorated on an actual day basis for any contract period of less than a full year or 10% of its contract with the State.

Failure to make a good faith effort may be cause for non-renewal of a state contract for legal services, and may be taken into account when determining the award of future contracts with the State for legal services.

5. EXPATRIATE CORPORATIONS: Contractor hereby declares that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code Section 10286 and 10286.1, and is eligible to contract with the State of California.

6. SWEATFREE CODE OF CONDUCT:

a. All Contractors contracting for the procurement or laundering of apparel, garments or corresponding accessories, or the procurement of equipment, materials, or supplies, other than procurement related to a public works contract, declare under penalty of perjury that no apparel, garments or corresponding accessories, equipment, materials, or supplies furnished to the state pursuant to the contract have been laundered or produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. The contractor further declares under penalty of perjury that they adhere to the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at www.dir.ca.gov, and Public Contract Code Section 6108.

b. The contractor agrees to cooperate fully in providing reasonable access to the contractor's records, documents, agents or employees, or premises if reasonably required by authorized officials of the contracting agency, the Department of Industrial Relations, or the Department of Justice to determine the contractor's compliance with the requirements under paragraph (a).

7. DOMESTIC PARTNERS: For contracts executed or amended after July 1, 2004, the contractor may elect to offer domestic partner benefits to the contractor's employees in accordance with Public Contract Code section 10295.3. However, the contractor cannot require an employee to cover the costs of providing any benefits which have otherwise been provided to all employees regardless of marital or domestic partner status.

DOING BUSINESS WITH THE STATE OF CALIFORNIA

The following laws apply to persons or entities doing business with the State of California.

1 CONFLICT OF INTEREST Contractor needs to be aware of the following provisions regarding current or former state employees. If Contractor has any questions on the status of any person rendering services or involved with the Agreement, the awarding agency must be contacted immediately for clarification.
Current State Employees (Pub. Contract Code §10410):

1) No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.

2) No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.
Former State Employees (Pub. Contract Code §10411):

1). For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.

2). For the twelve-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the 12-month period prior to his or her leaving state service. If Contractor violates any provisions of above paragraphs, such action by Contractor shall render this Agreement void. (Pub. Contract Code §10420)

Members of boards and commissions are exempt from this section if they do not receive payment other than payment of each meeting of the board or commission, payment for preparatory time and payment for per diem. (Pub. Contract Code §10430 (e))

2 LABOR CODE/WORKERS' COMPENSATION. Contractor needs to be aware of the provisions which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions, and Contractor affirms to comply with such provisions before commencing the performance of the work of this Agreement (Labor Code Section 3700)

3 AMERICANS WITH DISABILITIES ACT. Contractor assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA (42 U.S.C. 12101 et seq.)

4. **CONTRACTOR NAME CHANGE:** An amendment is required to change the Contractor's name as listed on this Agreement. Upon receipt of legal documentation of the name change the State will process the amendment. Payment of invoices presented with a new name cannot be paid prior to approval of said amendment.

5. **CORPORATE QUALIFICATIONS TO DO BUSINESS IN CALIFORNIA:**

- a. When agreements are to be performed in the state by corporations, the contracting agencies will be verifying that the contractor is currently qualified to do business in California in order to ensure that all obligations due to the state are fulfilled.
- b. "Doing business" is defined in R&TC Section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit. Although there are some statutory exceptions to taxation, rarely will a corporate contractor performing within the state not be subject to the franchise tax.
- c. Both domestic and foreign corporations (those incorporated outside of California) must be in good standing in order to be qualified to do business in California. Agencies will determine whether a corporation is in good standing by calling the Office of the Secretary of State.

6. **RESOLUTION:** A county, city, district, or other local public body must provide the State with a copy of a resolution, order, motion, or ordinance of the local governing body which by law has authority to enter into an agreement, authorizing execution of the agreement.

7. **AIR OR WATER POLLUTION VIOLATION:** Under the State laws, the Contractor shall not be: (1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; (2) subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of provisions of federal law relating to air or water pollution.

8. **PAYEE DATA RECORD FORM STD. 204:** This form must be completed by all contractors that are not another state agency or other governmental entity.

PAYEE DATA RECORD(Required when receiving payment from the State of California in lieu of IRS W-9)
STD 204 (Rev. 6-2003)

| | | | | | | | | | |
|--|--|--|--|--|---|------------------------|--|------------------------------|--|
| 1 | INSTRUCTIONS. Complete all information on this form. Sign, date, and return to the State agency (department/office) address shown at the bottom of this page. Prompt return of this fully completed form will prevent delays when processing payments. Information provided in this form will be used by State agencies to prepare Information Returns (1099). See reverse side for more information and Privacy Statement. NOTE: Governmental entities, federal, State and local (including school districts), are not required to submit this form. | | | | | | | | |
| 2 | PAYEE'S LEGAL BUSINESS NAME (Type or Print) _____ <hr/> <table style="width: 100%;"> <tr> <td style="width: 60%;">SOLE PROPRIETOR - ENTER NAME AS SHOWN ON SSN (Last, First, MI)</td> <td style="width: 40%;">E-MAIL ADDRESS</td> </tr> <tr> <td>MAILING ADDRESS</td> <td>BUSINESS ADDRESS</td> </tr> <tr> <td>CITY, STATE, ZIP CODE</td> <td>CITY, STATE, ZIP CODE</td> </tr> </table> | | | SOLE PROPRIETOR - ENTER NAME AS SHOWN ON SSN (Last, First, MI) | E-MAIL ADDRESS | MAILING ADDRESS | BUSINESS ADDRESS | CITY, STATE, ZIP CODE | CITY, STATE, ZIP CODE |
| SOLE PROPRIETOR - ENTER NAME AS SHOWN ON SSN (Last, First, MI) | E-MAIL ADDRESS | | | | | | | | |
| MAILING ADDRESS | BUSINESS ADDRESS | | | | | | | | |
| CITY, STATE, ZIP CODE | CITY, STATE, ZIP CODE | | | | | | | | |
| 3 | ENTER FEDERAL EMPLOYER IDENTIFICATION NUMBER (FEIN): - | | NOTE Payment will not be processed without an accompanying taxpayer ID number. | | | | | | |
| PAYEE ENTITY TYPE CHECK ONE BOX ONLY | <table style="width: 100%;"> <tr> <td style="width: 33%; vertical-align: top;"> <input type="checkbox"/> PARTNERSHIP <input type="checkbox"/> ESTATE OR TRUST </td> <td style="width: 33%; vertical-align: top;"> CORPORATION <input type="checkbox"/> MEDICAL (e.g., dentistry, psychotherapy, chiropractic, etc.) <input type="checkbox"/> LEGAL (e.g., attorney services) <input type="checkbox"/> EXEMPT (nonprofit) <input type="checkbox"/> ALL OTHERS </td> <td style="width: 33%;"></td> </tr> <tr> <td colspan="3"> <input type="checkbox"/> INDIVIDUAL OR SOLE PROPRIETOR ENTER SOCIAL SECURITY NUMBER - </td> </tr> </table> | | | <input type="checkbox"/> PARTNERSHIP <input type="checkbox"/> ESTATE OR TRUST | CORPORATION <input type="checkbox"/> MEDICAL (e.g., dentistry, psychotherapy, chiropractic, etc.) <input type="checkbox"/> LEGAL (e.g., attorney services) <input type="checkbox"/> EXEMPT (nonprofit) <input type="checkbox"/> ALL OTHERS | | <input type="checkbox"/> INDIVIDUAL OR SOLE PROPRIETOR ENTER SOCIAL SECURITY NUMBER - | | |
| <input type="checkbox"/> PARTNERSHIP <input type="checkbox"/> ESTATE OR TRUST | CORPORATION <input type="checkbox"/> MEDICAL (e.g., dentistry, psychotherapy, chiropractic, etc.) <input type="checkbox"/> LEGAL (e.g., attorney services) <input type="checkbox"/> EXEMPT (nonprofit) <input type="checkbox"/> ALL OTHERS | | | | | | | | |
| <input type="checkbox"/> INDIVIDUAL OR SOLE PROPRIETOR ENTER SOCIAL SECURITY NUMBER - | | | | | | | | | |
| (SSN required by authority of California Revenue and Tax Code Section 18646) | | | | | | | | | |
| 4 | PAYEE RESIDENCY STATUS <input type="checkbox"/> California resident - Qualified to do business in California or maintains a permanent place of business in California. <input type="checkbox"/> California nonresident (see reverse side) - Payments to nonresidents for services may be subject to State income tax withholding. <input type="checkbox"/> No services performed in California <input type="checkbox"/> Copy of Franchise Tax Board waiver of State withholding attached. | | | | | | | | |
| 5 | <p style="text-align: center;">I hereby certify under penalty of perjury that the information provided on this document is true and correct. Should my residency status change, I will promptly notify the State agency below.</p> <table style="width: 100%;"> <tr> <td style="width: 70%;">AUTHORIZED PAYEE REPRESENTATIVE'S NAME (Type or Print)</td> <td style="width: 30%;">TITLE</td> </tr> <tr> <td>SIGNATURE</td> <td>DATE</td> </tr> <tr> <td></td> <td>TELEPHONE () - () - () </td> </tr> </table> | | | AUTHORIZED PAYEE REPRESENTATIVE'S NAME (Type or Print) | TITLE | SIGNATURE | DATE | | TELEPHONE () - () - () |
| AUTHORIZED PAYEE REPRESENTATIVE'S NAME (Type or Print) | TITLE | | | | | | | | |
| SIGNATURE | DATE | | | | | | | | |
| | TELEPHONE () - () - () | | | | | | | | |
| 6 | Please return completed form to Department/Office: _____ Unit/Section: _____ Mailing Address: _____ City/State/Zip: _____ Telephone: () - () - () Fax: () - () - () E-mail Address: _____ | | | | | | | | |

PAYEE DATA RECORD

STD 204 (Rev. 6-2003) (REVERSE)

| | | | | | | | | | |
|---|---|---|---------------------|----------------|---------------------|-------------------------------------|----------------|---------|----------------|
| 1 | <p><u>Requirement to Complete Payee Data Record, STD. 204</u></p> <p>A completed Payee Data Record, STD 204, is required for payments to all non-governmental entities and will be kept on file at each State agency. Since each State agency with which you do business must have a separate STD 204 on file, it is possible for a payee to receive this form from various State agencies.</p> <p>Payees who do not wish to complete the STD 204 may elect to not do business with the State. If the payee does not complete the STD 204 and the required payee data is not otherwise provided, payment may be reduced for federal backup withholding and nonresident State income tax withholding. Amounts reported on Information Returns (1099) are in accordance with the Internal Revenue Code and the California Revenue and Taxation Code.</p> | | | | | | | | |
| 2 | <p>Enter the payee's legal business name. Sole proprietorships must also include the owner's full name. An individual must list his/her full name. The mailing address should be the address at which the payee chooses to receive correspondence. Do not enter payment address or lock box information here.</p> | | | | | | | | |
| 3 | <p>Check the box that corresponds to the payee business type. Check only one box. Corporations must check the box that identifies the type of corporation. The State of California requires that all parties entering into business transactions that may lead to payment(s) from the State provide their Taxpayer Identification Number (TIN). The TIN is required by the California Revenue and Taxation Code Section 18646 to facilitate tax compliance enforcement activities and the preparation of Form 1099 and other information returns as required by the Internal Revenue Code Section 6109(a).</p> <p>The TIN for individuals and sole proprietorships is the Social Security Number (SSN). Only partnerships, estates, trusts, and corporations will enter their Federal Employer Identification Number (FEIN).</p> | | | | | | | | |
| 4 | <p><u>Are you a California resident or nonresident?</u></p> <p>A corporation will be defined as a "resident" if it has a permanent place of business in California or is qualified through the Secretary of State to do business in California.</p> <p>A partnership is considered a resident partnership if it has a permanent place of business in California. An estate is a resident if the decedent was a California resident at time of death. A trust is a resident if at least one trustee is a California resident.</p> <p>For individuals and sole proprietors, the term "resident" includes every individual who is in California for other than a temporary or transitory purpose and any individual domiciled in California who is absent for a temporary or transitory purpose. Generally, an individual who comes to California for a purpose that will extend over a long or indefinite period will be considered a resident. However, an individual who comes to perform a particular contract of short duration will be considered a nonresident.</p> <p>Payments to all nonresidents may be subject to withholding. Nonresident payees performing services in California or receiving rent, lease, or royalty payments from property (real or personal) located in California will have 7% of their total payments withheld for State income taxes. However, no withholding is required if total payments to the payee are \$1,500 or less for the calendar year.</p> <p>For information on Nonresident Withholding, contact the Franchise Tax Board at the numbers listed below:</p> <table border="0"> <tr> <td>Withholding Services and Compliance Section</td> <td>1-888-792-4900</td> <td>E-mail address</td> <td>wscs.gen@ftb.ca.gov</td> </tr> <tr> <td>For hearing impaired with TDD, call</td> <td>1-800-822-6268</td> <td>Website</td> <td>www.ftb.ca.gov</td> </tr> </table> | Withholding Services and Compliance Section | 1-888-792-4900 | E-mail address | wscs.gen@ftb.ca.gov | For hearing impaired with TDD, call | 1-800-822-6268 | Website | www.ftb.ca.gov |
| Withholding Services and Compliance Section | 1-888-792-4900 | E-mail address | wscs.gen@ftb.ca.gov | | | | | | |
| For hearing impaired with TDD, call | 1-800-822-6268 | Website | www.ftb.ca.gov | | | | | | |
| 5 | <p>Provide the name, title, signature, and telephone number of the individual completing this form. Provide the date the form was completed.</p> | | | | | | | | |
| 6 | <p><i>This section must be completed by the State agency requesting the STD. 204</i></p> | | | | | | | | |
| | <p><u>Privacy Statement</u></p> <p>Section 7(b) of the Privacy Act of 1974 (Public Law 93-579) requires that any federal, State, or local governmental agency, which requests an individual to disclose their social security account number, shall inform that individual whether that disclosure is mandatory or voluntary, by which statutory or other authority such number is solicited, and what uses will be made of it.</p> <p>It is mandatory to furnish the information requested. Federal law requires that payment for which the requested information is not provided is subject to federal backup withholding and State law imposes noncompliance penalties of up to \$20,000.</p> <p>You have the right to access records containing your personal information, such as your SSN. To exercise that right, please contact the business services unit or the accounts payable unit of the State agency(ies) with which you transact that business.</p> <p>All questions should be referred to the requesting State agency listed on the bottom front of this form.</p> | | | | | | | | |

ATTACHMENT 6
KEY PERSONNEL & EXPERIENCE

Name of Firm _____

Identify key personnel (include partners, associates, etc) who will be directly involved in providing the services

Name _____ Percent of Effort _____%

Title _____ Office Location _____

Role _____

How Long in Current Position? _____ How Long Employed in Current Firm? _____

Experience _____

Name of Firm _____

Identify key personnel (include partners, associates, and tax attorneys) who will be directly involved in providing the services

Name _____ Percent of Effort _____%

Title _____ Office Location _____

Role _____

How Long in Current Position? _____ How Long Employed in Current Firm? _____

Experience _____

AGREEMENT NUMBER
CPCFA02-06
REGISTRATION NUMBER

1 This Agreement is entered into between the State Agency and the Contractor named below

STATE AGENCY'S NAME
California Pollution Control Financing Authority

CONTRACTOR'S NAME
To be determined

2 The term of this Agreement is through

3 The maximum amount \$ of this Agreement is

4 The parties agree to comply with the terms and conditions of the following exhibits which are by this reference made a part of the Agreement

| | |
|--|--------|
| Exhibit A – Scope of Work | Pages |
| Exhibit B – CAL ReUSE Program Regulations | Pages |
| Exhibit C* – General Terms and Conditions | GTC306 |
| Check mark one item below as Exhibit D | |
| <input checked="" type="checkbox"/> Exhibit - D Special Terms and Conditions (Attached hereto as part of this agreement) | Pages |
| <input type="checkbox"/> Exhibit - D* Special Terms and Conditions | |
| Exhibit E – Additional Provisions | Pages |
| Exhibit F – Loan Agreement | Pages |
| Exhibit G – Promissory Note | Pages |
| Exhibit H – Loan Forgiveness Agreement | Pages |
| Payee Data Record (STD 204) | Pages |
| Contractor Certification Clauses (CCC 1005) | Pages |
| Resumes | |
| Copy of Contractor Proposal | |

Items shown with an Astensk (*), are hereby incorporated by reference and made part of this agreement as if attached hereto
These documents can be viewed at www.ols.dgs.ca.gov/Standard+Language

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

CONTRACTOR

CONTRACTOR'S NAME (if other than an individual, state whether a corporation, partnership, etc.)

BY (Authorized Signature)

DATE SIGNED (Do not type)



PRINTED NAME AND TITLE OF PERSON SIGNING

ADDRESS

STATE OF CALIFORNIA

AGENCY NAME

BY (Authorized Signature)

DATE SIGNED (Do not type)

PRINTED NAME AND TITLE OF PERSON SIGNING

ADDRESS

California Department of General
Services Use Only

☐ Exempt per

AGREEMENT NUMBER CPCFA02-06

EXHIBIT A SCOPE OF WORK

Capitalized terms used but not defined in this Agreement are defined in the CPCFA California Recycle Underutilized Sites (Cal ReUSE) Program Regulations commencing at Title 4, Division 11, Article 9 of the California Code of Regulations as the Regulations may be amended from time to time (the "Regulations").

- A. **CONTRACTOR** shall make Loan Applications available and accept and review completed Applications in accordance with the provisions of Section 8093 of the Regulations.
- B. **CONTRACTOR** shall determine Applicant, Brownfield Project and Loan eligibility in accordance with Sections 8090 and 8091 of the Regulations.
- C. **CONTRACTOR** shall ensure that all Applications received by **CONTRACTOR** are complete, contain all of the information required by Section 8092 of the Regulations, and notify Applicants where the Application is not complete in accordance with the provisions of Section 8093 of the Regulations.
- D. **CONTRACTOR** shall utilize CPCFA's legal questionnaire to gather the information required by Section 8092(m) of the Regulations (See Attachment A, *Cal ReUSE Legal Questionnaire*). Contractor shall ensure that Applicants supplying any affirmative responses to information required under Section 8092(m) of the Regulations meet the requirements of Section 8091(i) of the Regulations.
- E. **CONTRACTOR** shall utilize the CPCFA's Borrower Loan Agreement, Promissory Note and Loan Forgiveness Agreement (See Exhibits F, G and H to this Agreement) unless otherwise approved by the Executive Director or the Deputy Executive Director.
- F. **CONTRACTOR** shall approve or deny Applications and notify Applicants of such approval or denial in accordance with the provisions of Sections 8093 and 8094 of the Regulations.
- G. **CONTRACTOR** shall obtain Borrowers' signatures on Loan Agreements and Promissory Notes. Loan Agreements and Promissory Notes shall contain all terms required by CPCFA.
- H. **CONTRACTOR** shall ensure that **CONTRACTOR'S** portion of the Match contribution as described in Contractor's proposal letter dated _____ to CPCFA is available at all times. **CONTRACTOR** shall not substitute, replace or reassign the **CONTRACTOR'S** portion of the Match without CPCFA's prior approval. However, with CPCFA's prior approval, the parties may agree in writing to a change in the **CONTRACTOR'S** portion of the Match, which writing shall become a part of this Agreement.
- I. **CONTRACTOR** shall ensure that Match contributions from other entities involved with a Brownfield Project are available pursuant to Section 8095(e) of the Regulations and deposited with the Trustee prior to authorizing any disbursements under the Loan.
- J. **CONTRACTOR** shall ensure that Borrower has met all funding conditions in accordance with the commitment letter required in Sections 8096(a) and 8096(b) of the Regulations.

AGREEMENT NUMBER CPCFA02-06

EXHIBIT A

- K. **CONTRACTOR** shall utilize a trustee (the "Trustee") to be appointed by CPCFA to disburse and receive program and loan funds from Borrowers and CPCFA respectively (See Attachment B, *Trustee Duties*) as well as Match funds from **CONTRACTOR** or any other entity that provides Match. **CONTRACTOR** shall provide copies of the executed Loan Agreement, Promissory Note, Match funding instruction letter and an incumbency certificate to the Trustee. The Trustee will disburse funds to Borrowers upon the **CONTRACTOR**'s instructions. **CONTRACTOR** is responsible for the accuracy of the requests for draw. **CONTRACTOR** shall use its best efforts to provide the request for disbursement to the Trustee within ten (10) business days after the receipt of the request. Only one draw per month per Borrower will be allowed for each Loan.
- L. **CONTRACTOR** shall provide loan servicing for all Cal ReUSE loans made by CPCFA through Contractor. Loan servicing will include, among other things, approving, disbursing, extending, forgiving and overseeing repayment of Loans in accordance with Sections 8094, 8095, 8096 and 8097 of the Regulations and Borrower inquiries.
- M. **CONTRACTOR** shall grant requests for Loan extensions and Loan forgiveness in accordance with Section 8097 of the Regulations. **CONTRACTOR** shall obtain Borrowers' signatures on Loan extension agreements and Loan Forgiveness Agreements and ensure that each Forgiven Loan meets all requirements of Section 8097(c) of the Regulations including any and all repayment provisions required under Section 8096(c) of the Regulations.
- N. **CONTRACTOR** shall notify CPCFA of any and all defaults, loan extensions and forgiveness within five (5) business days of the occurrence of any such default, loan extension or forgiveness.
- O. **CONTRACTOR** shall make efforts to collect from delinquent Cal ReUSE Borrower and take all necessary steps to bring delinquent loans current. **CONTRACTOR** shall keep CPCFA informed of all loans that become delinquent, and of **CONTRACTOR**'s efforts to bring such loans current. To the extent CPCFA determines that collection steps should be undertaken that require legal assistance, the appointment of a receiver, or other legal action, the parties shall enter into an agreement regarding those activities and the payment therefore.
- P. If **CONTRACTOR** provides Technical Assistance to Applicants or Borrowers, Contractor shall do so in accordance with Section 8099 of the Regulations and in accordance with **CONTRACTOR**'s proposal dated _____ and as supplemented by **CONTRACTOR**'s letter to CPCFA dated _____.
- Q. **CONTRACTOR** shall ensure that Borrowers engage only Independent Consultants meeting standards set forth in Section 8090(h) and 8090(u) of the Regulations.
- R. **CONTRACTOR** shall ensure that Borrowers obtaining Loans for Planning for Remediation of Hazardous Materials identify an Oversight Agency if required in Section 8095(r) of the Regulations.
- S. **CONTRACTOR** shall enforce each Borrower's compliance with the Regulations, Loan Agreement, Promissory Note, and any and all other Loan documents associated with

AGREEMENT NUMBER CPCFA02-06

EXHIBIT A

- T. **CONTRACTOR** shall ensure Borrower's submission of the Final Report required by Section 8095(n) of the Regulations and in accordance with the provisions under the Loan Agreement and any and all other Loan documents
- U. **CONTRACTOR** shall ensure Borrower's submission of the Final Report certification (Exhibit C to the Loan Agreement) in accordance with Section 8095(p) of the Regulations and in accordance with the provisions under the Loan Agreement and any and all other Loan documents.
- V. **CONTRACTOR** shall provide all information required in reports for which the **CONTRACTOR** is the Borrower. **CONTRACTOR** shall provide all reports required by Section 8098 of the Regulations to CPCFA. **CONTRACTOR** agrees to provide other reports and documents as reasonably requested by CPCFA.
- W. Contractor shall market the program as described in Contractor's proposal letter dated _____ to CPCFA. However with CPCFA's prior approval, the parties may agree in writing to a change in Contractor's marketing plans which shall become a part of this agreement

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EXHIBIT A
Attachment A

CALReUSE Legal Questionnaire

Applicant (Borrower) Name _____

LEGAL STATUS QUESTIONNAIRE

For purposes of the following questions, the term "applicant" shall include the applicant and the project sponsor, the parent of the applicant and the project sponsor, and any subsidiary of the applicant or project sponsor if the subsidiary is involved in (for example, as a guarantor) or will be benefited by the application or the project. Public entity applicants without fiscal responsibility for the proposed project, including but not limited to, cities, counties, and joint powers authorities with 100 or more members, are not required to respond to this questionnaire

In addition to each of these entities themselves, the term "applicant" shall also include the direct and indirect holders of more than ten percent (10%) of the ownership interests in the entity, as well as the officers, principals and senior executives of the entity if the entity is a corporation, the members of the board of directors of a for-profit corporation, the general and limited partners of the entity if the entity is a partnership, and the members or managers of the entity if the entity is a limited liability company

Note: Members of the boards of directors of non-profit corporations, including officers of the boards are not required to respond to the questionnaire. However, Executive Directors, Chief Executive Officers, Presidents, or their equivalent and the Chief Financial Officers, the Treasurers, or their equivalent must respond. Additionally, the individual who will be executing the bond purchase agreement, if different from any of the above, must also respond.

Civil Matters

- 1 Has the applicant filed a bankruptcy or receivership case or had a bankruptcy or receivership action commenced against it, defaulted on a loan, or been foreclosed against in the *past ten years*? If so, please explain
- 2 Is the applicant *currently* a party to, or been notified that it may become a party to, any civil litigation that may materially and adversely affect (a) the financial condition of the applicant's business, or (b) the project that is the subject of the application? If so, please explain
- 3 Have there been any administrative or civil settlements, decisions, or judgments against the applicant within the *past ten years* that materially and adversely affected (a) the financial condition of the applicant's business, or (b) the project that is the subject of the application? If so, please explain and state the amount
- 4 Is the applicant *currently* subject to, or been notified that it may become subject to, any civil or administrative proceeding, examination, or investigation by a local, state or federal licensing or accreditation agency, a local, state or federal taxing authority, or a local, state or federal regulatory or enforcement agency?

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EXHIBIT A

5. In the *past ten years*, has the applicant been subject to any civil or administrative proceeding, examination, or investigation by a local, state or federal licensing or accreditation agency, a local, state or federal taxing authority, or a local, state or federal regulatory or enforcement agency that resulted in a settlement, decision, or judgment? If yes to either question numbers 4 or 5, please explain.

Criminal Matters

6. Is the applicant *currently* a party to, or the subject of, or been notified that it may become a party to or the subject of, any criminal litigation, proceeding, charge, complaint, examination or investigation, of any kind, involving, or that could result in, *felony charges* against the applicant? If so, please explain.
7. Is the applicant *currently* a party to, or the subject of, or been notified that it may become a party to or the subject of, any criminal litigation, proceeding, charge, complaint, examination or investigation, of any kind, involving, or that could result in, *misdemeanor charges* against the applicant for matters *relating to the conduct of the applicant's business*? If so, please explain.
8. Is the applicant *currently* a party to, or the subject of, or been notified that it may become a party to or the subject of, any criminal litigation, proceeding, charge, complaint, examination or investigation, of any kind, involving, or that could result in, criminal charges (whether felony or misdemeanor) against the applicant for any *financial or fraud related crime*? If so, please explain.
9. Is the applicant *currently* a party to, or the subject of, or been notified that it may become a party to or the subject of, any criminal litigation, proceeding, charge, complaint, examination or investigation, of any kind, that could *materially affect the financial condition of the applicant's business*?
10. Within the *past ten years*, has the applicant been convicted of any *felony*? If so, please explain.
11. Within the *past ten years*, has the applicant been convicted of any *misdemeanor related to the conduct of the applicant's business*? If so, please explain.
12. Within the *past ten years*, has the applicant been convicted of any *misdemeanor for any financial or fraud related crime*? If so, please explain.

I certify under penalty of perjury that this information is accurate and complete and understand that misrepresentation may result in the termination of this Agreement and cancellation of any allocation commitment(s).

Signature _____ Date _____

Title _____

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EXHIBIT A

ATTACHMENT B

Trustee Duties

Under the general direction of the Executive Director of the CPCFA, and the State Treasurer, who is Chair of the CPCFA, the Trustee will provide the following services for the CalReUSE Program

1. Establishing Accounts.

- A The Trustee will establish, maintain and hold a separate fund designated as the California Recycle Underutilized Sites Program Fund (the "Program Fund") into which Program Fund the CPCFA will deposit such funds as determined by the CPCFA. The moneys held in the Program Fund will at all times be the property of the CPCFA.
- B The Trustee will establish and fund Strategic Partner accounts from the Program Fund in amounts as determined by the CPCFA from time to time.
- C. The Trustee will establish and maintain one or more separate California Underutilized Sites Program Matching Funds Escrow Accounts to receive matching fund from Strategic Partners and/or Borrowers and/or other parties.

2. Loans from Strategic Partner Accounts.

- A The Trustee will disburse Loans proceeds to Borrowers from the Strategic Partner accounts in accordance with the requisitions submitted pursuant to paragraph 2.B., below. For each Loan to be funded, the Strategic Partner will provide the Trustee with a copy of the Loan Agreement, Promissory Note (Exhibit G) and a Matching Fund Letter.
- B The Strategic Partner will submit requisitions for each Loan to the Trustee as draws against the Loan are needed. The requisition must contain the following information:
 - 1) The name and address of the person to whom the payment is due,
 - 2) The purpose for which such payment is to be made,
 - 3) The amount to be paid,
 - 4) Indication of amount(s) to be paid from Match and/or Loan fund,
 - 5) Indication of amount(s) to be paid into the Program Fund for the Trustee's servicing fee and/or draw fee,
 - 6) The date that the funds are needed,
 - 7) Borrower represents and warrants that each disbursement mentioned therein is a proper draw against the fund indicated;
 - 8) Borrower represents and warrants that Borrower has not exceeded that maximum allowable amount of disbursement of Match and Loan proceeds as defined in Exhibit A of the Loan Agreement,
 - 9) Borrower representation and warranty that each disbursement mentioned therein is for an Eligible Cost as defined in the Regulations and the Loan Agreement;
 - 10) Borrower representation and warranty that each obligation mentioned therein has been properly incurred and is a proper charge against the Loan,
 - 11) Borrower representation and warranty that none of the items for which payment is requested has been previously paid by the Loan,

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EXHIBIT A ATTACHMENT B Trustee Duties

- 12) Borrower representation and warranty that each item for which payment is requested is or was necessary in connection with the Brownfield Project, and
 - 13) Every capitalized term has the meaning defined in the Loan Agreement
Within seven (7) business days after receipt of such requisition, signed by the Borrower and the Strategic Partner, the Trustee shall pay the amount set forth therein as directed by the terms thereof. The Strategic Partner is responsible for the accuracy of the requests for draw. The Trustee shall use its best efforts to disburse funds to the Borrower within ten (10) business days after the receipt of the request from the Strategic Partner.
 - C For each Loan, the Trustee will confirm that the aggregate amount of funds disbursed does not exceed the maximum loan amount in accordance with the requisitions, and compute on a monthly basis simple interest accruing on Loan amounts then outstanding in accordance with the provisions of the Loan Agreement
 - D The Trustee will receive Loan repayment monies from Borrowers. Any Loan repayment moneys received from Borrowers will be promptly credited to the Borrower's outstanding loan amount on the records of the Trustee and deposited into the Program Fund.
 - E Under certain circumstances the Strategic Partner may be the Borrower. In the event the Strategic Partner is a Borrower, the Authority shall be the Strategic Partner as to such Loan and shall cause funds to be disbursed pursuant to Section 8096 of the Regulations
- 3. Maintenance of Accounts.**
- A The moneys in the Program Fund will be invested by the Trustee at the written direction from time to time of the CPCFA to the Trustee in any investment permitted by Government Code Section 16430
 - B The moneys in the several Strategic Partner accounts held by the Trustee will be invested by the Trustee at the direction from time to time of the CPCFA in any investment permitted by Government Code Section 16430
 - C The moneys deposited in each of the Strategic Partner accounts held by the Trustee will be the property of the CPCFA, but held for the benefit of the Strategic Partner in whose name the account was created. At such time as the CPCFA notifies the Trustee in writing (with a copy to the Strategic Partner) that the participation of the Strategic Partner in the Program has been terminated, any money remaining in the Strategic Partner account will be promptly returned to the Program Fund (excluding funds held in the Matching Funds Escrow Account)
 - D The CPCFA may provide written direction to the Trustee to remit any monies in the Program Fund to the CPCFA
 - E At such time as the CPCFA in its discretion determines to terminate its role in the Cal ReUSE Program or otherwise to cease making deposits to the Program Fund, any money remaining in the Program Fund and the Strategic Partner accounts that are not committed pursuant to executed Loan Agreements shall be returned to the CPCFA at its written direction

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**EXHIBIT A
ATTACHMENT B
Trustee Duties**

4. Reporting and Other Requirements.

- A. The Trustee will provide quarterly (or monthly, if requested) reports to the CPCFA, and to each Strategic Partner as to its activities for which the Trustee holds a Strategic Partner account, of the balance and activities of each such Strategic Partner account as to its activities.
- B. All Loans will bear simple interest rates. The Trustee will calculate interest for each Loan in accordance with the terms of the related Promissory Note and provide monthly account statements to the CPCFA and the Strategic Partner that made the Loan.
- C. The Trustee will send Borrower Loan balance and interest accrual information to the CPCFA and to each Borrower and the related Strategic Partner on a monthly basis.
- D. The Trustee will prepare a quarterly (or monthly, if requested) report to the CPCFA that will include at least the following items, and additional information as reasonably requested by the CPCFA in writing at least 30 days prior to the end of any calendar quarter:
 - 1) Names of all Strategic Partners using the Program, and names of all Strategic Partners that joined or withdrew from the Program in the prior quarter;
 - 2) An accounting of the CPCFA Program Fund and each Strategic Partner account as of the end of the quarter;
 - 3) A listing of all Loans by Borrower name and Loan amount funded from each of the Strategic Partner accounts in the prior quarter;
 - 4) An accounting of all credited accrued interest on the Program Fund and each Strategic Partner account.

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EXHIBIT B

TEXT OF REGULATIONS

CALIFORNIA CODE OF REGULATIONS

Title 4. Business Regulations

Division 11. California Pollution Control Financing Authority

Article 9. California Recycle Underutilized Sites (Cal ReUSE) Program

§ 8090. Definitions.

The following definitions shall govern construction of Article 9

- (a) "Applicant" means any for-profit or not-for-profit organization, school district, participating party as defined in California Health and Safety Code Section 44506, or public agency as defined in California Health and Safety Code Section 44509 applying for a Loan.
- (b) "Application" means the information referred to in Section 8093.
- (c) "Authority" means the California Pollution Control Financing Authority, organized and existing under and by virtue of Division 27 (commencing with Section 44500) of the California Health and Safety Code.
- (d) "Borrower" means an Applicant whose Loan has been approved and who has executed a Loan Agreement
- (e) "Brownfield" means a real estate parcel, or improvements located on the parcel, or both that parcel and the improvements, which is abandoned, idled, or underused, due to real or perceived environmental contamination, including, but not limited to, soil or groundwater contamination, the presence of underground storage tanks, or the presence of asbestos or lead paint on the parcel or in the improvements located on the parcel.
- (f) "Brownfield Project" means a project for the site assessment and characterization of, and/or Planning for Remediation of Hazardous Material at a Brownfield.
- (g) "Census Designated Place" means a place designated as a census designated place by the Bureau of the Census.
- (h) "Consultant" means any of the following:
 - (1) A Class II environmental assessor registered by the Office of Environmental Health Hazard Assessment pursuant to Chapter 6 98 (commencing with Section 25570) of Division 20 of the California Health and Safety Code,
 - (2) A professional engineer registered in this State;
 - (3) A certified engineering geologist registered in this State, or
 - (4) A licensed hazardous substance contractor certified pursuant to Chapter 9 (commencing with Section 7000) of Division 3 of the California Business and Professions Code. A licensed hazardous substance contractor shall hold the equivalent of a degree from an accredited public or private college or university or a private postsecondary educational institution approved by the Bureau for Private Postsecondary and Vocational Education with at least 60 units in environmental, biological, chemical, physical, or soil science; engineering, geology; environmental or public health; or a directly related science field

In addition, a Consultant shall have at least three years experience in conducting site assessment and characterization

- (i) "Development Entity" means an entity engaged in the development of real estate
- (j) "Economically Struggling Community" means a community that the Applicant demonstrates to the satisfaction of the Strategic Partner is any one or more of the following.

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EXHIBIT B

- (1) A community with an unemployment rate equal to or greater than 125% of the statewide average based on the California Employment Development Department's most recent annual average for sub-county areas.
 - (2) A community with median family income of less than 80% of the statewide average based on the most recent census data available for cities or Census Designated Places (If no city or Census Designated Place level data is available, or if the Applicant chooses to identify an area that is smaller than a city or Census Designated Place, such as census tract or tracts, smaller areas will be used.)
 - (3) A community with a poverty rate equal to or greater than 110% of the statewide average based on the most recent census data available for cities or Census Designated Places. (If no city or Census Designated Place level data is available, or if the Applicant chooses to identify an area that is smaller than a city or Census Designated Place, such as census tract or tracts, smaller areas will be used.)
 - (4) A state designated Enterprise Zone (including a Local Agency Military Base Recovery Area, Manufacturing Enhancement Area or Targeted Tax Area).
 - (5) A federally designated Empowerment Zone or Enterprise Community
 - (6) A redevelopment project area adopted pursuant to California Health and Safety Code Sections 33000 et seq., where the Strategic Partner determines that the project area meets the definition of blighted area contained in California Health and Safety Code Section 33030.
 - (7) A city or county with a military base designated for closure pursuant to the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526), the Defense Base Closure and Realignment Act of 1990 (Public Law 101-510), or any subsequent closure approved by the President of the United States without objection by the Congress. The provision will apply to proposed projects within two miles of a military base closure in an urban setting and to proposed projects within five miles of a military base closure in a rural setting.
- (k) "Eligible Costs" means reasonable and necessary Brownfield Project costs, including but not limited to costs associated with any of the following:
- (1) Site assessment and characterization
 - (2) Technical Assistance.
 - (3) Planning for Remediation of Hazardous Material.
 - (4) Obtaining access to a Brownfield to conduct a Brownfield Project
- (l) "Empowerment Zone" means any area that meets the standards for designation as an empowerment zone under 26 U.S.C. Section 1392.
- (m) "Enterprise Community" means any area that meets the standards for designation as an enterprise community under 26 U.S.C. Section 1392.
- (n) "Enterprise Zone" means any area within a city, county, or a city and county that is designated as an enterprise zone by the Trade and Commerce Agency in accordance with the provisions of Section 7073 of the California Government Code
- (o) "Executive Director" means the Executive Director of the California Pollution Control Financing Authority.
- (p) "Feasibility Study" means the identification and evaluation of technically feasible and effective Remedial Action alternatives to protect public health and the environment at a Brownfield for purposes of developing a Remedial Action Plan.
- (q) "Final Report" means a written document prepared by an Independent Consultant that describes the Independent Consultant's findings resulting from the site assessment and characterization, Planning for

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Remediation of Hazardous Material, and/or technical assistance performed by the Independent Consultant in connection with a Brownfield

- (r) "Forgiven Loan" means a Loan for which repayment of all, or a portion, of the Loan is forgiven upon the conditions set forth in Section 8097
- (s) "Hazardous Material" means a hazardous material as defined in Section 25260(d) of the California Health and Safety Code
- (t) "Hazardous Waste Reporting Laws" means any and all state, federal and local laws, including, without limitation, statutes, rules, regulations, ordinances, administrative orders, judicial orders or consent decrees, requiring the reporting to any governmental, quasi-governmental or regulatory entity of any release, threatened release, presence or existence of a Hazardous Material or any similar substance or material into the environment
- (u) "Independent Consultant" means a Consultant who meets all of the following requirements
 - (1) The Consultant is not an employee of, general or limited partner or a shareholder in, or have any other ownership or management interest in the Borrower, a known responsible party, or a prospective buyer of the Brownfield,
 - (2) Consultant does not receive any source of income from the Borrower, a known responsible party, or a prospective buyer of the Brownfield, other than the payment of fees for professional services unless the Consultant is acting in his or her capacity as an employee of a governmental entity, and
 - (3) The Consultant does not accept, or agree to accept, any payment that is in any way contingent upon the outcome of a Final Report
- (v) "Loan" means a loan made in accordance with the procedures set forth in this Article 9
- (w) "Loan Agreement" means a written agreement for a Loan entered into between a Borrower and the Strategic Partner, or where the Strategic Partner is the Borrower, between the Borrower and the Authority
- (x) "Local Agency Military Base Recovery Area" means any military base or former military base or portion thereof that is designated as a local agency military base recovery area under the Local Agency Military Base Recovery Area Act (Cal Govt C Section 7105, et seq)
- (y) "Manufacturing Enhancement Area" means an area designated as a manufacturing enhancement area by the Trade and Commerce Agency in accordance with the provisions of California Government Code Section 7073 8
- (z) "Match" means the Strategic Partner's financial contribution to the Brownfield Project in an amount equal to 25 percent (25%) of the Loan amount Match also means a monetary contribution and/or related costs of overhead and staffing in amounts and percentages of each as set forth in the written agreement between the Strategic Partner and the Authority, by a Strategic Partner or other entity involved with the Brownfield Project
- (aa) "Oversight Agency" means any of the following
 - (1) The applicable Regional Water Quality Control Board,
 - (2) The California Department of Toxic Substances Control,
 - (3) A local agency, if the Brownfield is an underground storage tank site subject to Chapter 6 7 (commencing with section 25280) of Division 20 of the California Health and Safety Code and if all of the requirements set forth in subdivision (d)(2) of California Health and Safety Code Section 33459 1 are satisfied,
 - (4) An agency certified as a Certified Unified Program Agency or CUPA pursuant to Chapter 6 11 of Division 20 of the California Health and Safety Code (commencing with Section 25404), or

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- (5) The agency designated as the administering agency pursuant to California Health and Safety Code Section 25262
- (ab) "Planning for Remediation of Hazardous Material" means conducting a Feasibility Study, conducting a Remedial Investigation, and/or preparing a Remedial Action Plan
- (ac) "Public Infrastructure" means facilities accessible to the public that may include, but are not limited to, public roads, sewers, drainage, water, natural gas and/or electricity, telephone, and transportation services
- (ad) "Remedial Action Plan" means a plan for performing a Remedy or taking a Remedial Action
- (ae) "Remedial Investigation" means those actions necessary to determine the full extent of a Hazardous Material at a Brownfield, identify the public health and environment threat posed by the Hazardous Material, collect data on possible remedies, and otherwise evaluate the Brownfield, for purposes of developing a Remedial Action Plan
- (af) "Remedy or Remedial Action" has the same meaning as that term is used in California Health and Safety Code Section 25322, except that, for purposes of this article, the references in Section 25322 to a "hazardous substance" shall be deemed to be references to a "Hazardous Material"
- (ag) "Small Business" means that term as defined in Title 4, Division 11, Article 2, Section 8020 of the California Code of Regulations
- (ah) "Strategic Partner" means an entity chosen by the Authority in accordance with Section 8100 that receives and processes Applications, and/or provides Technical Assistance, and/or disburses funds, and/or provides administrative services to Borrowers for purposes of this Article 9 pursuant to a written agreement with the Authority. In the event the Authority does not contract with a Strategic Partner, Strategic Partner means the Authority. Under certain circumstances, the Strategic Partner may be the Applicant or the Borrower. In the event the Strategic Partner is an Applicant or a Borrower, the Authority shall be the Strategic Partner as to such Application and Loan
- (ai) "Targeted Tax Area" means an area designated as a targeted tax area by the California Trade and Commerce Agency in accordance with the provisions of California Government Code Section 7079
- (aj) "Technical Assistance" means information, education, training and assistance provided to an Applicant and/or Borrower by a Strategic Partner or its agent regarding Brownfield site assessment and characterization, Planning for Remediation of Hazardous Material and/or environmental regulation. Technical Assistance does not include any actions that would constitute participation in the management of property as defined in Section 25548.1 of the California Health and Safety Code or in 42 U.S.C. Section 9601(20)(F). Unless a Strategic Partner is a governmental entity that is exercising its regulatory authority under other applicable laws, regulations, inter-agency agreements, or governmental programs, a Strategic Partner shall not participate in the management of property as defined in Section 25548.1 of the California Health and Safety Code or in 42 U.S.C. Section 9601(20)(F).

Note: Authority cited: Section 44520, Health and Safety Code. Reference: Sections 44501, 44502, 44504.1, 44505, 44507, 44508, 44520, 44525.7, 44526(h), 44526(i), 44537.5, 44548(a) and 44548(b), Health and Safety Code

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EXHIBIT B

CALIFORNIA CODE OF REGULATIONS

Title 4. Business Regulations

Division 11. California Pollution Control Financing Authority

Article 9. California Recycle Underutilized Sites (Cal ReUSE) Program

§ 8091. Brownfield Project Loan Eligibility.

An Applicant shall be eligible for a Loan when the Strategic Partner determines ~~that~~ all of the following

- (a) The Applicant submits an Application that meets the requirements of Section 8092,
- (b) The Applicant proposes a Brownfield Project,
- (c) The Loan is requested to fund a portion of Eligible Costs associated with a Brownfield Project,
- (d) The Applicant demonstrates the ability to retain, or is, a Development Entity,
- (e) If the Loan and Match together does not finance all costs of the Brownfield Project, the Applicant identifies a funding source or financial means to finance the costs of the Brownfield Project not covered by the Loan,
- (f) The Applicant identifies a potential funding source or financial means to repay the Loan,
- (g) The Applicant demonstrates the ability to gather likely sources of capital to develop the Brownfield,
- (h) The Applicant has not been convicted of a felony or misdemeanor involving the regulation of Hazardous Materials, including, but not limited to, a conviction of a felony or misdemeanor under California Health and Safety Code Section 25395.13, and
- (i) Any affirmative responses provided in Section 8092(m) do not materially impugn the integrity of the Borrower or will not adversely affect the Borrower's ability to comply with these regulations
- (j) The Brownfield is not a parcel
 - (1) Currently listed on the National Priorities List pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Section 9605(a)(8)(B))
 - (2) Currently listed for a response action pursuant to Section 25356 of the California Health and Safety Code
 - (3) That is, or has ever been, owned or operated by a department, agency, or instrumentality of the United States
 - (4) That is a hazardous waste facility that is subject to the requirements of Article 9, Chapter 6.5, Division 20 of the California Health and Safety Code

Note Authority cited Section 44520, Health and Safety Code Reference Sections 44501, 44502, 44504.1, 44505, 44507, 44508, 44520, 44525.7, 44526(h), 44526(i), 44537.5, 44548(a) and 44548(b), Health and Safety Code

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CALIFORNIA CODE OF REGULATIONS

Title 4. Business Regulations

Division 11. California Pollution Control Financing Authority

Article 9. California Recycle Underutilized Sites (Cal ReUSE) Program

§ 8092. Brownfield Project Application Content.

An Application shall include all of the following:

- (a) The Applicant's name, address, telephone number, federal tax identification number, type of business or entity, the date the business or entity was established.
- (b) Whether the Applicant qualifies as a Small Business.
- (c) The identity of the owner and any operators of the Brownfield, including name, address, and telephone number
- (d) If the Applicant is not the owner of the Brownfield, evidence of:
 - (1) The Applicant's legal interest in the Brownfield,
 - (2) Permission of the owner of the Brownfield for the Applicant or the Applicant's agent(s) to have access to the Brownfield (governmental action already taken or that is expected to be taken prior to disbursement of loan proceeds to gain access or control of the Brownfield will be deemed to be permission to have access to the Brownfield); and
 - (3) Permission of the owner of the Brownfield for the Applicant or the Applicant's agent(s) to perform a Brownfield Project on the Brownfield (governmental action already taken or that is expected to be taken prior to disbursement of loan proceeds to gain access or control of the Brownfield will be deemed to be permission to perform a Brownfield Project on the Brownfield).
- (e) Information regarding the Brownfield for which the Loan is being requested, including:
 - (1) A description of the Brownfield including:
 - (A) the location of the Brownfield,
 - (B) evidence of the Brownfield's location in an Economically Struggling Community, if applicable,
 - (C) a site layout that includes the location and dimensions of any existing buildings, utilities, and other pertinent features, if available;
 - (D) the current use and zoning of the Brownfield;
 - (E) the current land uses and zoning of adjacent property and the surrounding neighborhood;
 - (F) identification of Public Infrastructure and its proximity to the Brownfield;
 - (G) previous use of the Brownfield;
 - (H) known and suspected Hazardous Material located at the Brownfield,
 - (I) proposed reuse of the Brownfield, if known;
 - (J) the estimated time period for completion, components, and costs of the Brownfield Project; and
 - (K) the goals and objectives of and the benefit to the community from the Brownfield Project or development of the Brownfield

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EXHIBIT B

- (2) Development timetable for the Brownfield.
- (3) A description of obstacles to reuse of the Brownfield (e.g., regulatory issues, complex remediation, liability, and/or marketability)
- (4) Identification of local regulatory and land use jurisdictions within which the proposed Brownfield Project is located
- (5) A description of community involvement and local government support for the Brownfield Project.
- (f) A description of the Applicant's experience managing projects similar to the one proposed and the qualifications of key personnel involved
- (g) Identification of a person that meets the definition of an Independent Consultant that will perform the activities necessary to complete the Brownfield Project
- (h) Identification of the proposed Oversight Agency if the proposed Loan will be used to finance Planning for Remediation of Hazardous Material.
- (i) Identification of potential funding sources for:
 - (1) Completion of the Brownfield Project.
 - (2) Development of the Brownfield.
 - (3) Repayment of the Loan
- (j) A description of requested Eligible Costs to be financed by the Loan.
- (k) The requested Loan amount and term
- (l) Information demonstrating ability to provide Match for the Loan.
- (m) Information regarding any past or current bankruptcies, loan defaults, foreclosures, convictions, or criminal, civil or administrative investigations, orders, proceedings, litigation, settlements, or judgments, by or involving the Borrower or to which Borrower is or was a party.
- (n) A signed, notarized statement from the Applicant whereby the Applicant agrees to all of the following
 - (1) To provide Application-related documentation to the Strategic Partner upon request;
 - (2) That the Application will be evaluated according to Authority regulations, and that a Loan is not an entitlement;
 - (3) That information submitted to the Strategic Partner or the Authority is subject to the California Public Records Act; and
 - (4) Under penalty of perjury, that all information provided to the Strategic Partner or the Authority is true and correct, and that the Applicant has an affirmative duty to notify the Strategic Partner or the Authority of changes causing information in the Application or other submittals to become false.

Note: Authority cited Section 44520, Health and Safety Code Reference. Sections 44501, 44502, 44504 1, 44505, 44507, 44503, 44520, 44525.7, 44526(h), 44526(i), 44537.5, 44548(a) and 44548(b), Health and Safety Code.

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CALIFORNIA CODE OF REGULATIONS

Title 4. Business Regulations

Division 11. California Pollution Control Financing Authority

Article 9. California Recycle Underutilized Sites (Cal ReUSE) Program

§ 8093. Application Availability, Submission and Strategic Partner Review.

- (a) Loan Applications shall be available from the Authority's staff or from any Strategic Partner. Applicants can obtain a list of Strategic Partners or a copy of the Application by contacting the Authority's staff at the following address: California Pollution Control Financing Authority, 915 Capitol Mall, Room 457, Sacramento, California, 95814 Attention: California Recycle Underutilized Sites (Cal ReUSE) Program, or by telephoning (916) 654-5610. The Application shall contain the information set forth in Section 8092. The Applicant shall submit one (1) complete and signed Application to a Strategic Partner.
- (b) The Strategic Partner shall review each Application in accordance with the provisions of this Article 9. No later than forty-five (45) days following receipt of an Application, the Strategic Partner shall in writing either:
 - (1) Notify the Applicant that the Application is approved;
 - (2) Notify the Applicant that the Application is denied and the reasons for the denial, or
 - (3) Notify the Applicant if the Application remains incomplete and describe what additional information the Applicant needs to submit to complete the Application. If the Strategic Partner determines that any document submitted in the Application is not adequate, the Application shall be deemed incomplete.

Note. Authority cited. Section 44520, Health and Safety Code. Reference: Sections 44501, 44502, 44504.1, 44505, 44507, 44508, 44520, 44525.7, 44526(h), 44526(i), 44537.5, 44548(a) and 44548(b), Health and Safety Code.

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Article 9. California Recycle Underutilized Sites (Cal ReUSE) Program

§ 8094. Loan Approval and Commitment Letter.

(a) Loan Approval.

- (1) The Strategic Partner shall be authorized to approve an Application when
 - (A) The Application is complete and meets all of the requirements of Section 8091, and
 - (B) Funds are available
- (2) The Strategic Partner shall give priority to Applications for Loans as follows
 - (A) First, to Brownfields located in Economically Struggling Communities,
 - (B) Second, to Brownfields located in areas with existing Public Infrastructure, and
 - (C) Third, to other Brownfields

(b) Commitment Letter. If the Loan is approved, the Strategic Partner shall notify the Applicant by a letter committing the Authority to provide Loan funds so long as the Applicant strictly complies with the terms and conditions contained therein. The commitment letter shall include at least all of the following

- (1) Name(s) of the Borrower and any guarantor
- (2) Loan amount and term
- (3) A description of Eligible Costs to be financed by the Loan
- (4) Description of Match, including amount and type
- (5) Interest rate and any required loan fees
- (6) A requirement that any evidence described in Section 8092 as being expected prior to the disbursement of loan proceeds shall be received as a condition to disbursement of loan proceeds
- (7) Disbursement process, including a statement that Loan proceeds shall be disbursed on a reimbursement basis
- (8) Insurance requirements, if any
- (9) Conditions and covenants
- (10) The date when the commitment expires
- (11) A statement that the Authority reserves the right to modify or cancel the commitment upon failure of the Applicant to execute a Loan Agreement that includes all of the terms and conditions set forth in the commitment letter, or if the Authority or the Strategic Partner becomes aware of any matter which, if known at the time of Loan review or approval, would have resulted in the Application not being approved. Such matters may include, but will not be limited to
 - (A) A determination that the Application was prepared incorrectly, contains incorrect information or omits required information

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(B) Business circumstances that would negatively affect the Applicant's ability to repay the Loan

Note Authority cited Section 44520, Health and Safety Code Reference Sections 44501, 44502, 44504 1, 44505, 44507, 44508, 44520, 44525 7, 44526(h), 44526(i), 44537 5, 44548(a) and 44548(b), Health and Safety Code

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§ 8095. Loan Terms.

The terms and conditions of a Loan shall be set forth in a Loan Agreement executed by the Borrower and shall include, at a minimum, all of the following terms and conditions:

- (a) A fixed interest rate equal to the average earnings rate of the State's Surplus Money Investment Fund for the calendar year prior to the date the Loan is made,
- (b) A Loan amount not greater than one hundred twenty five thousand dollars (\$125,000) for Eligible Costs with respect to a Brownfield. For purposes of this subdivision, contiguous or related parcels included in a Brownfield Project that are owned or controlled by the same Borrower shall together be deemed to constitute one Brownfield;
- (c) A Loan term not to exceed thirty-six (36) months;
- (d) Principal and interest to become due and payable in full upon the earliest of:
 - (1) Issuance of either a grading permit or a building permit for the Brownfield;
 - (2) Sale or transfer (including, without limitation, an option to purchase or a contract of purchase) of all or part of the Brownfield;
 - (3) The maturity date set forth in the Loan Agreement, which date shall not be more than thirty-six (36) months after the date of the Loan; or
 - (4) The occurrence of an event of default under the Loan Agreement
- (e) Evidence that the cash portion of the Match will be met at closing of the Loan and a description of and acknowledgment of credit for any non-cash portion of the Match,
- (f) Disbursement and repayment procedures pursuant to Section 8096;
- (g) A provision that any unused Loan funds shall revert to the Authority,
- (h) Default provisions including, but not limited to, interest from and after the date of default at a rate of ten percent (10%) per annum,
- (i) Agreement to comply with the Authority's program statutes and regulations;
- (j) Agreement that the Borrower will defend, indemnify and hold harmless the Authority and the State, and all officers, trustees, agents and employees of the same, from and against any and all claims, losses, costs, damages, or liabilities of any kind or nature, whether direct or indirect, arising from or relating to the Loan, the Brownfield or this program, including but not limited to, any and all claims, losses, costs, damages, or liabilities arising from or related to the presence, release, threatened release, investigation or remediation of Hazardous Material of the Brownfield,
- (k) Agreement to comply with laws outlawing discrimination including, but not limited to those prohibiting discrimination because of sex, race, color, ancestry, religion, creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (cancer or genetic characteristics), sexual orientation, political affiliation, position in a labor dispute, age, marital status, and denial of statutorily-required employment-related leave;
- (l) Agreement that continued compliance with program requirements is the Borrower's responsibility;

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- (m) Agreement that if the Loan is used for Eligible Costs pursuant to Section 8090(k)(1) and/or Section 8090(k)(3), that the Borrower will cause the Independent Consultant to prepare a Final Report;
- (n) Agreement that the Borrower will provide or cause to be provided to the Strategic Partner a copy of the Final Report within 30 days of completion of the Final Report;
- (o) Agreement that the Borrower will comply with all Hazardous Waste Reporting Laws applicable to the Brownfield or resulting from the contents of the Final Report;
- (p) Agreement that the Borrower will deliver to the Strategic Partner within 90 days after Borrower's receipt of the Final Report a certification to the Authority in writing and under penalty of perjury all of the following:
 - (1) That the Borrower is informed of and understands all Hazardous Waste Reporting Laws applicable to the Brownfield and the contents of the Final Report;
 - (2) Whether there was a reporting requirement under any of the Hazardous Waste Reporting Laws applicable to the Brownfield or resulting from the contents of the Final Report;
 - (3) That the Borrower has made all the reports required by the Hazardous Waste Reporting Laws applicable to the Brownfield or resulting from the contents of the Final Report in the manner and within the time periods required by such Hazardous Waste Reporting Laws; and
 - (4) To whom and when such report was made.
- (q) Agreement that Borrower's failure to comply with any Hazardous Waste Reporting Law applicable to the Brownfield or resulting from the contents of the Final Report, or failure to deliver the certification required by Section 8095(p) within the time period required, will constitute an event of default under the Loan resulting in all of the principal and interest on the Loan becoming immediately due and payable.
- (r) If the Loan is for Planning for Remediation of Hazardous Materials, agreement that upon entering into the Loan Agreement, the Borrower will identify an Oversight Agency that will oversee and approve the activities that constitute Planning for Remediation of Hazardous Materials;
- (s) Agreement by the Borrower to comply with all applicable law, including but not limited to statutes, rules, regulations, administrative orders and agreements, and judicial orders or consent decrees that apply to the Brownfield, related to or arising from assessment, characterization and remediation of a Brownfield, including but not limited to those requiring the preparation of a description of Hazardous Material on the Brownfield and those requiring oversight and supervision to assure the adequacy of any Feasibility Study, Remedial Investigation or Remedial Action Plan by the Oversight Agency;
- (t) Agreement that if the Borrower recovers damages from a person who is liable for the release, threatened release, presence or existence of a Hazardous Material at the Brownfield, any money so recovered shall be used first to repay the Loan, except that the Borrower shall be permitted to retain fees and costs incurred in recovering the damages; and
- (u) Any other provision agreed to by the parties

Note: Authority cited Section 44520, Health and Safety Code Reference: Sections 44501, 44502, 44504.1, 44505, 44507, 44508, 44520, 44525.7, 44526(h), 44526(i), 44537.5, 44548(a) and 44548(b), Health and Safety Code

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Article 9. California Recycle Underutilized Sites (Cal ReUSE) Program

§ 8096. Conditions of Funds Disbursement, Funds Disbursement and Loan Repayment Procedures.

(a) **Conditions of Funds Disbursement.** The Strategic Partner shall not disburse Loan funds unless all of the following conditions are met:

- (1) All other funds for completing the Brownfield Project are obtained and available for use
- (2) All terms and conditions contained in the commitment letter described in 8094(b) are satisfied;
- (3) Execution of a Loan Agreement, Promissory Note and any other documents, as required, and compliance with all conditions precedent to disbursement contained in the Loan Agreement.

(b) **Funds Disbursement.** The Strategic Partner shall cause funds to be disbursed as follows:

- (1) The Borrower shall sign and submit to the Strategic Partner a signed invoice documenting the service or procedure performed from entities providing materials and services for Eligible Costs covered by the Loan Agreement.
- (2) Upon receipt of the signed invoice, the Strategic Partner, in its sole discretion, shall authorize the disbursement of Loan funds to the Borrower:
 - (A) First, from the cash portion of the Match until depleted, and
 - (B) Second, from the funds of the Authority committed by the Authority for the Loan.

(c) **Loan Repayment Procedures.** The Strategic Partner shall cause any Brownfield Project loan repayment proceeds received from the Borrower to be delivered promptly upon receipt by the Strategic Partner to the following entities in the following order.

- (1) First, to the Authority until the funds advanced by the Authority for the Loan, or a Forgiven Loan, are repaid in full, with interest, and
- (2) Second, to the Strategic Partner to repay any loan to the Borrower by the Strategic Partner in connection with the Brownfield Project, if applicable.

Note: Authority cited: Section 44520, Health and Safety Code Reference: Sections 44501, 44502, 44504 1. 44505, 44507, 44508, 44520, 44525.7, 44526(h), 44526(i), 44537.5, 44548(a) and 44548(b), Health and Safety Code.

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§ 8097. Loan Extensions, Loan Forgiveness and Conditions for Forgiven Loans.

- (a) **Loan Extensions.** Upon written request received from the Borrower, the maturity of a Loan may be extended by the Strategic Partner if both of the following conditions are met
- (1) The Borrower clearly demonstrates that it is unable to complete the Brownfield Project by the end of the Loan term, and
 - (2) The Borrower clearly demonstrates how the Brownfield Project can be completed in the additional time requested.
- (b) **Loan Forgiveness.** Upon written request from the Borrower, a Loan may be forgiven by the Strategic Partner if the Borrower, acting reasonably and in good faith, fails to complete the Brownfield Project or proceed with development of the Brownfield
- (c) **Conditions for Forgiven Loans.** Any forgiveness of a Loan hereunder shall be conditioned on
- (1) The Borrower's execution of a written agreement whereby
 - (A) The Borrower promises that in the event the Borrower subsequently causes (i) the issuance of either a grading permit or a building permit for the Brownfield or (ii) sells or transfers (including, without limitation, an option to purchase or a contract of purchase) all or part of the Brownfield, the Borrower will repay the forgiven balance of the Loan (and the Strategic Partner shall receive and deliver such funds in accordance with Section 8096(c)), and
 - (B) The Borrower promises that if it recovers damages from a person who is liable for the release, threatened release, presence or existence of a Hazardous Material at the Brownfield, any money so recovered shall be used first by the Borrower to repay the forgiven balance of the Loan, except that the Borrower shall be permitted to retain fees and costs incurred in recovering the damages
 - (2) The Borrower's delivery of documentation to the Strategic Partner evidencing that the Borrower has complied with all applicable laws, including but not limited to statutes, rules, and regulations, administrative orders and agreements, judicial orders, and consent decrees that apply to the Brownfield and relate to or arise from the site assessment and characterization, Planning for Remediation of Hazardous Materials, and remediation of the Brownfield. Such documentation shall include evidence that the Borrower has complied with any applicable requirement to obtain oversight and approval from an Oversight Agency
 - (3) The Borrower's delivery of the Final Report to the Strategic Partner as required by Section 8095(n)
 - (4) The Borrower's delivery to the Strategic Partner of the certification as required by Section 8095(p)

Note Authority cited Section 44520, Health and Safety Code Reference Sections 44501, 44502, 44504 1, 44505, 44507, 44508, 44520, 44525 7, 44526(h), 44526(i), 44537 5, 44548(a) and 44548(b), Health and Safety Code

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§ 8098. Strategic Partner Reports and Records Retention.

(a) A Strategic Partner shall provide the following quarterly reports to the Authority.

(1) **Applications Received Report.** This report shall include the following information:

- (A) A listing of identified Brownfield Projects for which Applications have been submitted and for which funding is anticipated during the next six months.
- (B) Identification of whether proposed Brownfields are located in Economically Struggling Communities.
- (C) Identification of whether the Strategic Partner is the Applicant.

(2) **Request for Funds Report.** This report shall include the following information for each Brownfield Project to be funded during the next three months

- (A) A description of the Brownfield Project.
- (B) Identification of whether the Brownfield is located in an Economically Struggling Community.
- (C) Identification of whether the Strategic Partner is the Applicant.
- (D) Identification of whether the Applicant qualifies as a Small Business.
- (E) Requested Loan amount for Brownfield Project.
- (F) Description of Eligible Costs to be funded for the Brownfield Project.
- (G) Proposed Loan term.
- (H) Description of Match for the Brownfield Project including the source and amount of Match
- (I) Identification of total amount of loan funds requested for the quarter

(3) **Brownfields Projects Status Report.** This report shall describe the current status of each Brownfield Project for which a Loan (including a Loan for which the Strategic Partner is the Borrower) remains outstanding including:

- (A) A description of activities performed at the Brownfield for the previous three months.
- (B) A statement of whether or not the Strategic Partner has received the Final Report and, if so, a summary of the Final Report that was received during the previous three months
- (C) A statement of whether or not the Strategic Partner has received the certification as required by Section 8095(p).

(4) **Outstanding Loans Report.** This report shall describe the current repayment status of every Loan (including a Loan where the Strategic Partner is the Borrower) including:

- (A) Name of Borrower.
- (B) Identification of whether the Borrower is a Small Business.

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(C) Identification of whether the Borrower is a Strategic Partner

(D) Name of Brownfield Project

(E) Street Address of the Brownfield

(F) Draw down on Match

(G) Current payments

(H) Total Loan repayment status

(I) If a Loan is extended

i) The date that the Loan was extended, and

ii) The current Loan amount and term

(J) If a Loan is a Forgiven Loan

i) The date that the Loan was forgiven, and

ii) The amount forgiven

(5) Other reports and documents as reasonably requested by the Authority

(b) Brownfields Development Status Report. A Strategic Partner shall provide an annual report to the Authority that shall describe the current status of the development of each Brownfield for which a Loan (including a Loan where the Strategic Partner is the Borrower) was made including

(1) A description of the proposed use for the Brownfield

(2) A detailed description of development activities performed at the Brownfield for the previous year

(3) Upon completion of development of the Brownfield, a description of the final use for the property

(c) Records Retention. A Strategic Partner shall retain the Application, all documents that were submitted by the Borrower with the Application, and all documents pertaining to the Loan and the Brownfield Project for at least six years after the later of the termination of the Loan, or the completion of actions and the resolution of all issues, that arise as a result of any litigation, claim, negotiation or audit concerning the Loan Agreement or an agreement executed pursuant to Section 8097(c)(1)

Note Authority cited Section 44520, Health and Safety Code Reference Sections 44501, 44502, 44504 1, 44505, 44507, 44508, 44520, 44525 7, 44526(h), 44526(i), 44537 5, 44548(a) and 44548(b), Health and Safety Code

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§ 8099. Technical Assistance.

- (a) Upon request of an Applicant or Borrower the Strategic Partner may provide Technical Assistance to assist in the development of a Brownfield Project.
- (b) Technical Assistance provided by a Strategic Partner for the Brownfield Project may count as Match for the Brownfield Project, but may not be reimbursed with Loan funds.
- (c) Unless a Strategic Partner is a governmental entity that is exercising its regulatory authority under other applicable laws, regulations, inter-agency agreements, or governmental programs, a Strategic Partner shall not engage in any actions that would constitute participation in the management of property as defined in Section 25548.1 of the California Health and Safety Code or in 42 U.S.C. Section 9601(20)(F).

Note: Authority cited: Section 44520, Health and Safety Code. Reference Sections 44501, 44502, 44504 1, 44505, 44507, 44508, 44520, 44525.7, 44526(h), 44526(i), 44537 5, 44548(a) and 44548(b), Health and Safety Code.

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§ 8100. Strategic Partner Eligibility and Selection Criteria.

- (a) A governmental agency or public or private entity shall be eligible to participate as a Strategic Partner and Strategic Partners will be selected by the Authority based upon the following eligibility and selection criteria:
 - (1) Demonstrated ability to provide Technical Assistance to a Development Entity;
 - (2) Demonstrated understanding of the economic and real estate development processes,
 - (3) Demonstrated understanding of environmental assessment and remediation requirements;
 - (4) Demonstrated understanding of Brownfield regulatory and reporting requirements, and
 - (5) Demonstrated partnership experience
- (b) The services to be provided by a Strategic Partner pursuant to Section 8090(a) hereof shall be provided as an independent contractor pursuant to a written agreement to be entered into by and between the Strategic Partner and the Authority.
- (c) An entity may not act as a Strategic Partner as to any Brownfield for which such entity is a responsible party as defined by Section 25323.5 of the California Health and Safety Code. However, as to any such Brownfield, the entity may be an Applicant and Borrower, and the Authority shall be the Strategic Partner with respect to such Application and Loan.

Note: Authority cited: Section 44520, Health and Safety Code. Reference: Sections 44501, 44502, 44504.1, 44505, 44507, 44508, 44520, 44525.7, 44526(h), 44526(i), 44537.5, 44548(a) and 44548(b), Health and Safety Code

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§ 8101. Strategic Partner as Applicant and/or Borrower.

The following shall apply in all cases where the Strategic Partner is the Applicant and/or the Borrower:

- (a) In the event that a Strategic Partner is an Applicant or a Borrower, the Authority shall be the Strategic Partner as to such Application and Loan
- (b) If the Authority is the Strategic Partner, the Executive Director shall be authorized to:
 - (1) Determine whether the Applicant shall be eligible for a Loan pursuant to Section 8091 hereof.
 - (2) Review the Application and notify the Applicant pursuant to Section 8093 hereof.
 - (3) Approve the Loan and notify the Applicant pursuant to Section 8094 hereof.
 - (4) Cause funds to be disbursed to the Borrower pursuant to Section 8096 hereof.
 - (5) Determine whether a Loan shall be extended or forgiven pursuant to Section 8097 hereof.

Note: Authority cited: Section 44520, Health and Safety Code Reference: Sections 44501, 44502, 44504 1, 44505, 44507, 44508, 44520, 44525.7, 44526(h), 44526(i), 44537.5, 44548(a) and 44548(b), Health and Safety Code.

EXHIBIT C
(Standard Agreement)

GENERAL TERMS AND CONDITIONS

PLEASE NOTE This page will not be included with the final agreement The General Terms and Conditions will be included in the agreement by reference to Internet site www.dgs.ca.gov/contracts

EXHIBIT C

GENERAL TERMS AND CONDITIONS

1. APPROVAL: This Agreement is of no force or effect until signed by both parties and approved by the Department of General Services, if required. Contractor may not commence performance until such approval has been obtained.
2. AMENDMENT: No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or Agreement not incorporated in the Agreement is binding on any of the parties.
3. ASSIGNMENT: This Agreement is not assignable by the Contractor, either in whole or in part, without the consent of the State in the form of a formal written amendment.
4. AUDIT: Contractor agrees that the awarding department, the Department of General Services, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (Gov. Code §8546.7, Pub. Contract Code §10115 et seq., CCR Title 2, Section 1896).
5. INDEMNIFICATION: Contractor agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by Contractor in the performance of this Agreement.
6. DISPUTES: Contractor shall continue with the responsibilities under this Agreement during any dispute.
7. TERMINATION FOR CAUSE: The State may terminate this Agreement and be relieved of any payments should the Contractor fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination the State may proceed with the work in any manner deemed proper by the State. All costs to the State shall be deducted from any sum due the Contractor under this Agreement and the balance, if any, shall be paid to the Contractor upon demand.

8. INDEPENDENT CONTRACTOR: Contractor, and the agents and employees of Contractor, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of the State.

9. RECYCLING CERTIFICATION: The Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of post consumer material as defined in the Public Contract Code Section 12200, in products, materials, goods, or supplies offered or sold to the State regardless of whether the product meets the requirements of Public Contract Code Section 12209. With respect to printer or duplication cartridges that comply with the requirements of Section 12156(e), the certification required by this subdivision shall specify that the cartridges so comply (Pub. Contract Code §12205).

10. NON-DISCRIMINATION CLAUSE: During the performance of this Agreement, Contractor and its subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (cancer), age (over 40), marital status, and denial of family care leave. Contractor and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.

Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.

11. CERTIFICATION CLAUSES: The CONTRACTOR CERTIFICATION CLAUSES contained in the document CCC 1005 are hereby incorporated by reference and made a part of this Agreement by this reference as if attached hereto.

12. TIMELINESS: Time is of the essence in this Agreement.

13. COMPENSATION: The consideration to be paid Contractor, as provided herein, shall be in compensation for all of Contractor's expenses incurred in the performance hereof, including travel, per diem, and taxes, unless otherwise expressly so provided.

14. GOVERNING LAW: This contract is governed by and shall be interpreted in accordance with the laws of the State of California.

15. ANTITRUST CLAIMS: The Contractor by signing this agreement hereby certifies that if these services or goods are obtained by means of a competitive bid, the Contractor shall comply with the requirements of the Government Codes Sections set out below.

a. The Government Code Chapter on Antitrust claims contains the following definitions:

1). "Public purchase" means a purchase by means of competitive bids of goods, services, or materials by the State or any of its political subdivisions or public agencies on whose behalf the Attorney General may bring an action pursuant to subdivision (c) of Section 16750 of the Business and Professions Code.

2). "Public purchasing body" means the State or the subdivision or agency making a public purchase. Government Code Section 4550.

b. In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder. Government Code Section 4552.

c. If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Government Code Section 4553.

d. Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action. See Government Code Section 4554.

16. CHILD SUPPORT COMPLIANCE ACT: "For any Agreement in excess of \$100,000, the contractor acknowledges in accordance with Public Contract Code 7110, that:

a). The contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and

b) The contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department."

17. UNENFORCEABLE PROVISION: In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby.

18. PRIORITY HIRING CONSIDERATIONS: If this Contract includes services in excess of \$200,000, the Contractor shall give priority consideration in filling vacancies in positions funded by the Contract to qualified recipients of aid under Welfare and Institutions Code Section 11200 in accordance with Pub. Contract Code §10353.

EXHIBIT D
(Standard Agreement)

SPECIAL TERMS AND CONDITIONS

1 Excise Tax

The State of California is exempt from federal excise taxes, and no payment will be made for any taxes levied on employees' wages. The State will pay for any applicable State of California or local sales or use taxes on the services rendered or equipment or parts supplied pursuant to this Agreement. California may pay any applicable sales and use tax imposed by another state.

2 Settlement of Disputes

In the event of a dispute, Contractor shall file a "Notice of Dispute" with a Deputy Treasurer of the State Treasurer's Office within ten (10) days of discovery of the problem. Within ten (10) days, the Deputy Treasurer shall meet with the representatives of Contractor and the California Pollution Control Financing Authority (CPCFA) identified in Paragraph 4 of Exhibit A for purposes of resolving the dispute. The decision of the Deputy Treasurer shall be final.

In the event of a dispute, the language contained within this Agreement shall prevail over any other language including that of the bid proposal.

3 Evaluation of Contractor

Within sixty (60) days after the completion of this Agreement, the Contract Manager shall complete a written evaluation of Contractor's performance under this Agreement. If this Agreement is a contract for consultant services and if Contractor did not satisfactorily perform the work, a copy of the evaluation will be sent to the Department of General Services, Office of Legal Services, and to the Contractor within fifteen (15) working days of the completion of the evaluation.

4 No Agency Liability

The Contractor warrants by execution of this Agreement, that no person or selling agency has been employed or retained to solicit or secure this Agreement upon agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, CPCFA shall, in addition to other remedies provided by law, have the right to annul this Agreement without liability, paying only for the value of the work actually performed, or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.

5 Potential Subcontractors

Nothing contained in this Agreement or otherwise, shall create any contractual relation between the CPCFA and any subcontractors, and no subcontract shall relieve the Contractor of his responsibilities and obligations hereunder. The Contractor agrees to be as fully responsible to the CPCFA for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the Contractor. The Contractor's obligation to pay its subcontractors is an independent obligation from the obligation of CPCFA to make payments to the Contractor. As a result, the CPCFA shall have no obligation to pay or to enforce the payment of any moneys to any subcontractor.

EXHIBIT D
(Standard Agreement)

6 Force Majeure

Neither party to this Agreement shall be liable for damages resulting from delayed or defective performance when such delays arise out of causes beyond the control and without the fault or negligence of the offending party. Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of the State in its sovereign capacity, fires, floods, power failure, disabling strikes, epidemics, quarantine restrictions, and freight embargoes.

7 Waivers

No delay on the part of any party in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any waiver on the part of any party of any right, power or privilege hereunder, nor any single or partial exercise of any right, power or privilege hereunder, preclude any other or further exercise thereof or the exercise of any other right, power or privilege hereunder.

8 Incorporation of Amendments to Applicable Laws

Any references to sections of federal or state statutes or regulations shall be deemed to include a reference to any amendments thereof and any successor provisions thereto.

9. Confidentiality

All financial, statistical, personal, technical and other data and information relating to the operations of CPCFA which are designated confidential by CPCFA and become available to Contractor shall be protected by Contractor from unauthorized use and disclosure.

10 Attorney's Fees and Costs

In the event of any litigation between the parties to enforce or interpret the provisions of this Agreement, the non-prevailing party shall, unless both parties agree to the contrary, pay the expenses arising from such litigation, including reasonable attorney's fees, allocated costs for services of in-house counsel, and court costs, of the prevailing party. These expenses shall be in addition to any other relief to which the prevailing party may be entitled.

11 Titles/Section Headings

Titles and headings are not part of this Agreement, instead they are for convenience of reference only, and shall have no effect on the construction or legal effect of this Agreement.

12. Choice of Law

Notwithstanding Paragraph 14 of Exhibit C (General Terms and Conditions), this Agreement shall be administered, construed, and enforced according to the laws of the State of California (without regard to any conflict of laws provisions) to the extent such laws have not been preempted by applicable federal law. Any suit brought hereunder (including any action to compel arbitration or to enforce any award or judgment rendered thereby) shall be brought in state court sitting in Sacramento, California, the parties hereby waiving any claim or defense that such forum is not convenient or proper. Each party agrees that any such court shall have in personam jurisdiction over it and consents to service of process in any manner authorized by California law.

EXHIBIT D
(Standard Agreement)

13. Notices

The parties agree that to avoid unreasonable delay in the progress of the services performed hereunder, Contractor and CPCFA have designated in Paragraph D of Exhibit E specific staff representatives for the purpose of communication between the parties. Any notice or other written communication required or which may be given hereunder shall be deemed given when delivered personally, or if mailed, three (3) days after the date of mailing, unless by express mail, telecopy or telegraph, then upon the date of confirmed receipt, to the representatives named in Paragraph D of Exhibit E.

Either party hereto may, from time to time by notice in writing served upon the other as aforesaid, designate a different mailing address or a different or additional person to which all such notices or demands thereafter are to be addressed

14. Permits and Licenses

Contractor shall carry out its duties and responsibilities herein in accordance with, be limited in the exercise of its rights by, and observe and comply with, all federal, state, city and county laws, rules or regulations affecting services under this Agreement. Contractor shall procure and keep in full force and effect during the term of this Agreement all permits and licenses necessary to accomplish the work contemplated in this Agreement.

15. Additional Documents

Contractor and CPCFA agree to execute such additional documents, and perform such further acts, as may be reasonable and necessary to carry out the provisions of this Agreement.

16. Disabled Veteran Business Participation

- 1 Nothing shall be construed to authorize contractor to discriminate in the solicitation or acceptance of bids for subcontracting, or for materials or equipment, on the basis of race, color, sex, ethnic origin or ancestry.
- 2 Contractor agrees to provide CPCFA or its delegate with any information reasonably necessary to comply with the obligations set forth in the applicable provisions of Public Contract Code sections 10115, et seq. Upon reasonable notice, Contractor shall permit CPCFA or its delegate access to Contractor's premises during normal business hours to interview employees and to inspect and copy books, records, accounts, and other materials for the purpose of determining compliance with the applicable provisions of Public Contract Code sections 10115, et seq. and Title 2, California Code of Regulations, sections 1896.60 et seq. Contractor further agrees to maintain such records for a period of (3) years after final payment under this Agreement. Contractor further agrees to make this paragraph applicable to all subcontracts entered hereunder.
and to inspect and copy books, records, accounts, and other materials for the purpose of determining compliance with the applicable provisions of Public Contract Code sections 10115, et seq. and Title 2, California Code of Regulations, sections 1896.60 et seq. Contractor further agrees to maintain such records for a period of (3) years after final payment under this Agreement. Contractor further agrees to make this paragraph applicable to all subcontracts entered hereunder.

17. Key Personnel

- a A resume for each member of Contractor's staff who will exercise a significant administrative, policy, or consulting role under this Agreement is attached to this Agreement is attached to this

EXHIBIT D
(Standard Agreement)

Agreement These members of Contractor's staff shall be hereafter referred to (both individually and collectively) as "Key Personnel"

- b Contractor shall not substitute, replace or reassign Key Personnel without the prior approval of CPCFA and an amendment to this Agreement
- c This Agreement may be terminated immediately, in the sole discretion of CPCFA and upon written notice from CPCFA to Contractor, because of any change in or departure of any of the Key Personnel

18 Changes in Control, Organization or Key Personnel

Contractor shall promptly, and in any case within five (5) calendar days, notify CPCFA in writing (i) if any of Contractor's representations and warranties, as set forth in this Agreement, cease to be true at any time during the term of this Agreement, (ii) of any change in Contractor's staff who exercises a significant administrative, policy, or consulting role under this Agreement, {including without limitation the Key Personnel}, (iii) of any change in the majority ownership, control, or business structure of Contractor, or (iv) of any other material change in Contractor's business, partnership or corporate organization. All written notices from Contractor under this provision shall contain sufficient information to permit CPCFA to evaluate the changes within Contractor's staff or organization under the same criteria as was used by CPCFA in its award of this Agreement to Contractor. Contractor agrees to provide CPCFA with such additional information as requested by CPCFA.

19. Insurance Requirements

Contractor warrants that it carries adequate liability, worker's compensation and other necessary insurance and shall maintain such insurance at levels acceptable to CPCFA in full force and effect during the term of this Agreement. Contractor agrees to furnish satisfactory evidence of this insurance coverage to CPCFA upon request.

20. Subcontractors

- a Contractor shall perform the work contemplated by this Agreement with resources available within its own organization except for subcontracted work identified in this Agreement or other attachment incorporated hereto. No other portion of the work pertinent to this Agreement shall be subcontracted without written authorization by CPCFA. The subcontractor must be mutually agreed upon in advance by both parties.
- b Contractor shall require that any subcontractor agree to be bound by all provisions of this Agreement, as applicable.

21. Notice of Proceedings

Contractor shall promptly notify CPCFA in writing of any investigation, examination or other proceeding involving Contractor or any Key Personnel commenced by any regulatory agency, which proceeding is not conducted in the ordinary course of Contractor's business.

22 Cumulative Remedies

The rights and remedies provided herein are cumulative and are not exclusive of any rights or remedies that any party may otherwise have at law or in equity.

EXHIBIT D
(Standard Agreement)

23. Binding Effect

This Agreement, any instrument or agreement executed pursuant to this Agreement, and the rights, covenants, conditions and obligations of Contractor and CPCFA contained therein, shall be binding upon the parties and their successors, assigns and legal representatives.

24. Publicity

No publicity release or announcement concerning this Agreement or the transactions contemplated herein shall be issued by Contractor without advance written approval by CPCFA.

25. Services or Procurement Resulting from Agreement

Neither Contractor, nor any of its subsidiaries, officers or directors, may submit a bid or be awarded a contract for the provision of services, procurement of goods or supplies, or any other related action which is required, suggested, or otherwise deemed to be an outgrowth of the advice or recommendations that Contractor provides under this Agreement.

26. Agreement Does Not Violate Law

Contractor represents and warrants that neither the execution of this Agreement nor the acts contemplated hereby nor compliance by Contractor with any provisions hereof will

- a. Violate any provision of the charter documents of Contractor;
- b. Violate any statute or law or ordinance or any judgment, decree, order, regulation or rule of any court or governmental authority applicable to Contractor; or
- c. Violate, or be in conflict with, or constitute a default under, or permit the termination of, or require the consent of any person under, any agreement to which Contractor may be bound, the violation of which in the aggregate would have a material adverse effect on the properties, business, prospects, earnings, assets, liabilities or condition (financial or otherwise) of Contractor.

27. Power and Authority

Contractor represents and warrants that it has the power and authority to enter into this Agreement and to carry out its obligations hereunder. The execution of this Agreement has been duly authorized by Contractor and no other proceeding on the part of Contractor is necessary to authorize this Agreement. Contractor has completed, obtained and performed all registrations, filings, approvals, authorizations, consents or examinations required by any government or governmental authority for its acts contemplated by this Agreement.

28. Signature Authorization

The person signing this Agreement warrants that he/she is an agent of Contractor and is duly authorized to enter into this Agreement on behalf of Contractor.

29. Entire Agreement; Order of Precedence

- a. This Agreement, including documents that have been incorporated in this Agreement by reference, contains all representations and the entire understanding between the parties hereto with respect

**EXHIBIT D
(Standard Agreement)**

to the subject matter hereof. Any prior correspondence, memoranda or agreements are replaced in total by this Agreement.

- b. In the event there are any inconsistencies or ambiguities among the terms of this Agreement and incorporated documents, the following order of precedence shall be used: (i) applicable laws, (ii) the terms and conditions of this Agreement, including attachments; (iii) the RFP; (iv) Contractor's response to the RFP; and (v) any other provisions, terms, or materials incorporated herein.

30. Termination at Option of CPCFA

In addition to the provisions of Paragraph 7 of Exhibit C (General Terms and Conditions), this Agreement may be terminated in whole or in part at any time upon **30 days for notice of termination** calendar days' written notice by CPCFA, for any reason. Upon receipt of a termination notice, Contractor shall promptly discontinue all services affected unless the notice specifies otherwise. In the event CPCFA terminates all or a portion of this Agreement for any reason, it is understood that CPCFA will provide payment to Contractor for satisfactory services rendered prior to the termination, but not in excess of the maximum amount of this Agreement.

31. Termination for Insolvency

Contractor shall notify CPCFA immediately in writing in the event that Contractor files any federal bankruptcy action or state receivership action, any federal bankruptcy or state receivership action is commenced against Contractor, Contractor is adjudged bankrupt, or a receiver is appointed and qualifies. In the event of any of the foregoing events, or if CPCFA determines, based on reliable information, that there is a substantial probability that Contractor will be financially unable to continue performance under this Agreement, CPCFA may terminate this Agreement and all further rights and obligations immediately **by giving five (5) days' notice in writing in the manner specified herein.**

32. Convenience

If after notice of termination for failure to fulfill contract obligations, it is determined that Contractor had not so failed, the termination shall be deemed to have been effected for the convenience of CPCFA.

33. Completion

In the event of termination for default, CPCFA reserves the right to take over and complete the work by contract or other means. In such case, Contractor will be liable to CPCFA for any additional cost incurred by CPCFA to complete the work whether reimbursed or not.

34. Effect of Termination

All duties and obligations of CPCFA and Contractor shall cease upon termination of this Agreement, except that:

- a. Each party shall remain liable for any rights, obligations, or liabilities arising from activities carried on by it under this Agreement prior to the effective date of termination; and
- b. Contractor shall provide for the return of all records of CPCFA to CPCFA or its designee and shall cooperate fully to effect an orderly transfer of services.

EXHIBIT D
(Standard Agreement)

35. Termination for Expatriation

Contractor shall notify STO immediately in writing in the event that Contractor or its parent files any notice with the Securities and Exchange Commission that Contractor intends to reincorporate offshore. In the event of such notice, STO may terminate this Agreement and all further rights and obligations immediately by giving five days notice in writing in the manner specified herein.

36. Compliance With Political Reform Act

CPCFA acknowledges that CPCFA is subject to the provisions of the Political Reform Act (Government Code Sections 81000, et seq., and all regulations adopted thereunder, including, but not limited to, California Code of Regulations Sections 18700, et. Seq.) and [CONTRACTOR] shall comply promptly with any requirement thereunder. If required by law, [CONTRACTOR] shall require its personnel, including without limitation, its Key Personnel all later substitutions therefore, to file Statements of Economic Interests in compliance with the Conflict of Interest Code for the Office of the State Treasurer and the various boards, authorities, commissions, and committees chaired by the State Treasurer, including CPCFA (California Code of Regulations, Title 2, Division 2, Chapter 4, Section 1897). All such reports shall be filed simultaneously with CPCFA.

EXHIBIT E
(Standard Agreement)
SPECIAL TERMS AND CONDITIONS

ADDITIONAL PROVISIONS

A. Term of Agreement

The term of this Agreement will commence on January 1, 2006, and shall continue for so long as any Loan remains outstanding, or until December 31, 2008, whichever is later, unless earlier terminated pursuant to paragraph 30 or 31 of Exhibit D

B. General Terms and Conditions

CONTRACTOR will comply with and be bound by the Regulations for the CALReUSE Program as such Regulations are amended from time to time.

C. Allocation Provisions

1. CPCFA shall grant to **CONTRACTOR** an initial allocation of CALReUSE Program funds to make Loans under the Program. This approval shall be evidenced by the execution of an allocation approval resolution. CPCFA may grant additional allocations in its sole discretion.
2. CPCFA agrees to disburse each allocation as promptly as fiscal procedures permit, subject to approval of the Executive Director or the Deputy Executive Director designated in paragraph D of this Exhibit E
3. Each allocation approval amount is valid for one year with 6 months to 1-year extensions available for any unused allocations at the discretion of the Executive Director or the Deputy Executive Director. Allocation extension dates shall not exceed the term of this Agreement.
4. Notwithstanding Sections C1, C2 and C3 above hereof, any allocation amounts in excess of amounts for which Borrowers have entered into Loan Agreements may be withdrawn by the CPCFA at anytime, without cause, and **CONTRACTOR** must cease from approving any additional Loans at that time.

D. Communication

1. Sherri Kay Wahl, Program Manager, or other designated employee of CPCFA, shall be the Contract Manager for this Agreement. This person will have the overall responsibility to administer, evaluate and follow-up on the work of **CONTRACTOR** during the term of this Agreement.
2. All official communication from **CONTRACTOR** to CPCFA shall be directed to the attention of the Executive Director or the Deputy Executive Director of the CPCFA at the following address:

California Pollution Control Financing Authority
915 Capitol Mall, Suite 457
Sacramento, California 95814
(916) 654-5610

- 3 All communication from CPCFA to **CONTRACTOR** shall be directed to the attention of:
NAME, TITLE, DEPARTMENT, or other designated individual of **CONTRACTOR** at the following address:

Either party hereto may, from time to time by notice in writing served upon the other as aforesaid, designate a different mailing address or a different or additional person to which all such notices or demands thereafter are to be addressed.

EXHIBIT E
(Standard Agreement)
SPECIAL TERMS AND CONDITIONS

E. Match

The **CONTRACTOR** agrees that for each Loan approved by **CONTRACTOR**, that Contractor shall deposit with the Trustee the **CONTRACTOR's** portion of the Match and any other cash portion of the Match provided by or on behalf of Borrower, if applicable, as described more fully in Exhibit A of the Loan Agreement prior to Loan funding. **CONTRACTOR** further agrees to instruct the Trustee as to the amount of Match for each Loan and that disbursements to the Borrower are to be made first from the Match amount and then from Loan proceeds following disbursement of the entire Match amount. **CONTRACTOR** may determine the order of disbursement of Match funds. **CONTRACTOR** is responsible for the accuracy of the requests for draw.

F. Loan Requirements

Prior to the issuance of a Loan **CONTRACTOR** agrees that

- 1 For each Loan utilizing an Independent Consultant, that **CONTRACTOR** shall ensure that the Independent Consultant meets all of the requirements of the Regulations
- 2 For each of the costs described as Eligible Costs in each Loan Agreement that **CONTRACTOR** shall ensure that such costs are Eligible Costs under the Regulations
- 3 For each Loan used for Planning for Remediation of Hazardous Material as defined in the Regulations, that **CONTRACTOR** shall ensure that the Borrower has identified an Oversight Agency
- 4 For each Loan requiring a portion of the Match to be met by the Borrower's own funds, that **CONTRACTOR** shall ensure that the Borrower deposited its funds with the Trustee prior to **CONTRACTOR** authorizing any disbursements under the Loan Agreement
- 5 For each Loan requiring the preparation of a Final Report, that **CONTRACTOR** will obtain a copy of the Final Report required by Section 8095(n) of the Regulations
- 6 For each Loan requiring the preparation of a Final Report, that **CONTRACTOR** will obtain a copy of the Final Report certification required by Section 8095(p) of the Regulations
- 7 **CONTRACTOR** shall provide all reports as required by CPCFA as set forth in Section 8098 of the Regulations and that **CONTRACTOR** shall provide other reports and documents as reasonably requested by the CPCFA

G. Laws Relating to Brownfields

CONTRACTOR agrees to comply with all applicable law, including but not limited to statutes, rules, regulations, administrative orders and agreements, and judicial orders or consent decrees that apply to the Brownfield, related to or arising from assessment, characterization and remediation of a Brownfield

H. Management of Property

Unless **CONTRACTOR** is a governmental entity that is exercising its regulatory authority under other applicable laws, regulations, inter-agency agreements, or governmental programs, **CONTRACTOR** shall not engage in any actions that constitute participation in the management of property as defined in Section 25548.1 of the California Health and Safety Code or in 42 U.S.C. Section 9601(20)(F)

I. Contractor as Applicant or Borrower

In the event that **CONTRACTOR** is an Applicant or a Borrower for the CALReUSE Program, CPCFA shall be the Strategic Partner as to **CONTRACTOR's** Application and Loan pursuant to Section 8101(b) of the Regulations. CPCFA shall not provide Match funds; Match funds remain the obligation of **CONTRACTOR**.

EXHIBIT E
(Standard Agreement)
SPECIAL TERMS AND CONDITIONS

J Funding Provisions

This Agreement is valid subject to availability of funds. If this Agreement overlaps fiscal years, CPCFA's monetary obligation under this Agreement in subsequent fiscal years is subject to and contingent upon availability of funds budgeted for the purpose of this Agreement.

K Non-Assignment

Neither this Agreement nor any rights or obligations hereunder may be assigned by **CONTRACTOR** without the prior written consent of the CPCFA.

L Counterparts

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

M Permits and Licenses

CONTRACTOR shall carry out its duties and responsibilities herein in accordance with, be limited in the exercise of its rights by, and observe and comply with, all federal, state, city and county laws, rules or regulations affecting services under this Agreement. **CONTRACTOR** shall procure and keep in full force and effect during the term of this Agreement all permits and licenses necessary to accomplish the work contemplated in this Agreement.

N Reports and/or Meetings

- 1 **CONTRACTOR** shall provide oral or written progress reports as requested by CPCFA to determine if **CONTRACTOR** is performing to expectations, is on schedule, to communicate interim findings, or to afford occasions for discussing and resolving problems encountered.
- 2 **CONTRACTOR** shall meet with CPCFA staff and/or the Authority upon request to discuss progress on the Agreement or to present findings, conclusions, and recommendations.

O Books and Records

CONTRACTOR shall keep accurate books and records connected with the performance of this Agreement. Contractors shall ensure that books and records of subcontractors, suppliers, and other providers shall also be accurately maintained. Such books and records shall be kept in a secure location at the **CONTRACTOR's** premise and shall be available for inspection and copying by CPCFA and its representatives at any time. **CONTRACTOR** acknowledges that all documents held by **CONTRACTOR** on behalf of CPCFA may be subject to the California Public Records Act.

P Entire Agreement/Incorporated Documents/Order of Precedence

- 1 This Agreement contains all representations and the entire understanding between the parties hereto with respect to the subject matter hereof. Any prior correspondence, memoranda, or agreements are replaced in total by this Agreement.
- 2 This Agreement shall consist of the terms of this Agreement, and all attached documents that are expressly incorporated herein. In addition to those documents that are incorporated elsewhere in this Agreement, the following documents are, by this reference, also incorporated herein:
 - (a) **CONTRACTOR's** proposal to become the statewide strategic partner for the CALReUSE Program dated _____,
 - (b) **CONTRACTOR's** letter dated _____ to supplement **CONTRACTOR's** proposal to become the statewide strategic partner for the CALReUSE Program dated _____.

EXHIBIT E
(Standard Agreement)

SPECIAL TERMS AND CONDITIONS

3. In the event there are any inconsistencies or ambiguities among the terms of this Agreement and incorporated documents, the following order of precedence shall be used. (i) applicable laws, (ii) the Regulations; (iii) the terms and conditions of this Agreement, including attachments; (iv) item 2(a) above, (v) item 2(b) above, and (vi) any other provisions, terms, or materials incorporated herein

AGREEMENT NUMBER CPCFA02-06

EXHIBIT F

LOAN AGREEMENT

CALIFORNIA RECYCLE UNDERUTILIZED SITES (Cal ReUSE) PROGRAM

BORROWER NAME

BORROWER ADDRESS

THIS AGREEMENT (the "Agreement") IS MADE THIS _____ day of _____, 20--, between, *ABC DEVELOPMENT COMPANY* (the "Borrower") and the California Pollution Control Financing Authority ("CPCFA" or "Lender") acting by and through its agent, *STRATEGIC PARTNER NAME*, a *LEGAL DESCRIPTION*, (the "Strategic Partner")

RECITALS

- A. Borrower proposes to *INSERT DESCRIPTION OF THE BROWNFIELD PROJECT (MUST INDICATE "ELIGIBLE COSTS" BEING FINANCED PURSUANT TO THE CPCFA'S REGULATIONS)* (the "Brownfield Project").
- B. The purpose of this Agreement is to set forth the conditions upon which CPCFA will loan *\$AMOUNT* to Borrower to undertake the Brownfield Project.
- C. Borrower has applied to Lender for a Cal ReUSE Program Loan and Borrower's Application has been determined by the Strategic Partner to meet eligibility requirements.
- D. Borrower wishes to borrow from Lender the principal sum of *### THOUSAND DOLLARS (\$AMOUNT)* and Lender is willing to lend such sum to Borrower from the Cal ReUSE Program Fund (the "Program Fund") for the Brownfield Project as defined below on the terms and conditions herein contained.

NOW, THEREFORE, Lender and Borrower agree as follows:

ARTICLE I – DEFINITIONS

Section 1.1 – BORROWER means *ABC DEVELOPMENT COMPANY*, a *LEGAL DESCRIPTION* Company.

Section 1.2 - BROWNFIELD means that certain real property commonly known as _____ [Property Address] _____ as more specifically described by the legal description attached hereto as Exhibit A (incorporated herein by reference).

Section 1.3 – ELIGIBLE COSTS shall mean those costs set forth in Exhibit A attached hereto (incorporated herein by reference).

Section 1.4 – HAZARDOUS MATERIAL has the same meaning as "Hazardous Material" in Section 8090 of the CPCFA Regulations.

THE FOLLOWING DEFINITION IS NOT REQUIRED FOR LOANS FOR ELIGIBLE COSTS PURSUANT TO SECTION 8090(k)(4) OF THE REGULATIONS.

Section 1.5 – INDEPENDENT CONSULTANT means *NAME OF FIRM*.

Section 1.6 - LOAN means the loan between the Borrower and the Lender evidenced by the Loan Documents.

Section 1.7 - LOAN DOCUMENTS means this Agreement, the Promissory Note, the Borrower's Application including any and all exhibits to the Loan Documents.

Section 1.8 - REGULATIONS means the CPCFA California Recycle Underutilized Sites (Cal ReUSE) Program Regulations, Title 4, Division 11, Article 9 (commencing with Section 8090) of the California Code of Regulations, as the Regulations may be amended from time to time.

Section 1.9 - TRUSTEE means *NAME OF TRUSTEE BANK* or any successor thereof.

Section 1.10 - Any capitalized terms used but not defined in this Agreement will have the meaning set forth in the Regulations.

ARTICLE II – LOAN

Section 2.1 - PROMISSORY NOTE. The Loan shall be evidenced by a promissory note (the "Note") of even date with this Agreement in the original principal amount of \$ _____. The Loan shall be payable in accordance with the terms of the Note.

ARTICLE III – REPRESENTATIONS AND WARRANTIES

Borrower makes the following representations and warranties to Lender:

Section 3.1 - LEGAL STATUS. Borrower is a *LEGAL DESCRIPTION* and is qualified to do business in California and in all local jurisdictions therein which it conducts its business.

Section 3.2 - AUTHORIZATION. This Agreement has been duly authorized, executed and delivered by Borrower, and is a valid and binding agreement of Borrower; and the Note to be executed by Borrower upon its execution and delivery, in accordance with the provisions of this Agreement, will be a valid binding obligation of Borrower enforceable in accordance with its terms.

Section 3.3 - BROWNFIELD. The Brownfield as set forth in Exhibit A attached hereto meets the criteria defined in Section 8090(e) of the Regulations.

Section 3.4 - BROWNFIELD PROJECT. The Brownfield Project as set forth in Exhibit A attached hereto meets the criteria defined in Section 8090(f) of the Regulations.

Section 3.5 - ELIGIBLE COSTS. The costs set forth in Exhibit A attached hereto meet the criteria defined in Section 8090(k) of the Regulations.

Section 3.6 - INDEPENDENT CONSULTANT. The Independent Consultant meets the criteria defined in Sections 8090(h) and 8090(u) of the Regulations as documented in Exhibit D hereof.

THE FOLLOWING SECTION IS ONLY REQUIRED FOR BROWNFIELDS MEETING THE CRITERIA FOR ECONOMICALLY STRUGGLING COMMUNITY.

Section 3.7 - ECONOMICALLY STRUGGLING COMMUNITY. The Brownfield is located in *NAME OF COMMUNITY*, which is in a(n) [*DESCRIPTION—SEE 8090 (g), (j)(1)-(7), (l), (m)*],

(n), (x), (y), and (ai) OF THE REGULATIONS] and meets the criteria of an Economically Struggling Community as defined by Section 8090[INSERT APPROPRIATE SECTION NUMBER] of the Regulations.

Section 3.8 – LOAN DOCUMENTS. Borrower represents and warrants: (a) that Borrower has access to professional advice to the extent necessary to enable Borrower to fully comply with the terms of the Loan Documents and (b) that Borrower has the full power and authority to execute the Loan Documents.

ARTICLE IV - CONDITIONS PRECEDENT

The obligation of Strategic Partner to make any disbursements under the Loan on behalf of Lender is subject to all of the following conditions:

Section 4.1 - NO EVENT OF DEFAULT. There shall not exist an Event of Default under this Agreement or the Note, and there shall exist no event, omission or failure of condition, which, after notice or lapse of time, would constitute an Event of Default under this Agreement or the Note.

Section 4.2 - DOCUMENTATION. Borrower shall have delivered to Strategic Partner in form and substance satisfactory to Strategic Partner this Loan Agreement and the Note.

Section 4.3 – MATCH. Strategic Partner shall have delivered to Trustee evidence that Match has been met for the Loan as more fully described in Exhibit A of this Agreement and Strategic Partner shall deliver evidence that all cash Match funds have been deposited with the Trustee.

THE FOLLOWING SECTION IS ONLY USED IF THE LOAN IS FOR PLANNING FOR REMEDIATION OF HAZARDOUS MATERIALS AS DEFINED IN THE REGULATIONS.

Section 4.4 – OVERSIGHT AGENCY. If the Loan is for Planning for Remediation of Hazardous Materials as defined in the Regulations, Borrower has identified ***OVERSIGHT AGENCY NAME*** to oversee the Brownfield Project pursuant to Section 8095(r) of the Regulations.

Section 4.5 – FUNDING CONDITIONS. Borrower has met all funding conditions in accordance with Sections 8096(a) and 8096(b) of the Regulations.

Section 4.6 – TERMS OF COMMITMENT. In the event Borrower has not fulfilled all conditions precedent set forth in this Article IV within 30 days of Borrower's execution of this Agreement, Lender's obligation under this Agreement shall automatically terminate.

ARTICLE V – LOAN DISBURSEMENT PROCEDURES

Section 5.1 – TERMS OF DISBURSEMENT. Disbursements of the Loan shall commence upon closing of the Loan. Disbursements of the Loan shall be only for the Eligible Costs set forth in Exhibit A, in an aggregate amount of not more than the amounts set forth in Exhibit A for each Eligible Cost, unless as provided herein. Borrower shall obtain written authorization from the Strategic Partner to make changes in the eligible uses of funds that exceed ten percent (10%) or \$5,000, whichever is greater, the amount of any budget line item of Exhibit A.

Section 5.2 - DISBURSEMENT PROCESS AND ADDITIONAL ADVANCES. Only one draw per month will be allowed against the Loan. Borrower shall make requests for disbursement of Loan proceeds to Strategic Partner at least twenty (20) business days before the date such funds

are needed by Borrower. In order to receive disbursements, requests for disbursement must be supported by documentation sufficient in Strategic Partner's determination to support payment. Strategic Partner shall use its best efforts to respond to a request for disbursement within twenty (20) business days, after the receipt of the request.

The request for disbursement must contain at least the information in substance and form of Exhibit B attached hereto. Borrower shall pay an amount equal to one hundred dollars (\$100.00) for the Trustee's servicing fee from the initial disbursement of the Loan and an amount equal to fifty dollars (\$50.00) for each draw against the Loan.

Upon receipt of the signed request for disbursement, the Strategic Partner, in its sole discretion, shall authorize the disbursement of Loan funds to Borrower in the following order:

- (a) First, from the cash portion of the Match until depleted, and
- (b) Second, from the funds of the CPCFA committed by the CPCFA for the Loan.

Strategic Partner shall notify the Borrower in writing within five (5) business days of any deficiencies or discrepancies in the request for disbursement. Borrower shall not receive a disbursement until Borrower corrects any such deficiencies or discrepancies.

Borrower's expenditure of Loan funds for uses not described in Exhibit A or the request for disbursement, or which deviate, without Strategic Partner authorization, by more than the greater of ten percent (10%) or \$5,000 in any category from the approved uses of Loan proceeds listed in Exhibit A, shall result in the suspension of subsequent Loan disbursements and may be deemed by Lender to constitute an Event of Default hereunder. The amount of all ineligible Loan expenditures shall be immediately repaid to Lender.

Section 5.3 – AMOUNT OF DISBURSEMENT. Loan proceeds shall be disbursed up to the amount authorized under this Loan Agreement and only for Eligible Costs specified in Exhibit A. Any unused Loan funds shall revert to CPCFA.

Section 5.4 – DISBURSEMENT PERIOD. The initial disbursement of Loan proceeds shall be made no later than six (6) months from date of this Agreement, and all Loan disbursements shall be disbursed no later than twelve (12) months from the date of the first disbursement of the Loan unless Strategic Partner extends this time in writing, which writing shall become incorporated into this Agreement.

ARTICLE VI – AFFIRMATIVE COVENANTS

Borrower covenants that so long as Borrower is indebted to Lender under this Agreement, and until the payment in full of the Loan, Borrower shall:

Section 6.1 – FINAL REPORT. If the Loan is used to finance those Eligible Costs defined in Section 8090(k)(1) and/or Section 8090(k)(3) of the Regulations, Borrower will cause the Independent Consultant to prepare a Final Report. Borrower will provide or cause to be provided to the Strategic Partner a copy of the Final Report within thirty (30) days of completion of the Final Report.

Section 6.2 – FINAL REPORT CERTIFICATION. If the Loan is used to finance those Eligible Costs defined in Section 8090(k)(1) and/or Section 8090(k)(3) of the Regulations, Borrower will deliver to the Strategic Partner within ninety (90) days after Borrower's receipt of

the Final Report a written certification under penalty of perjury in substance and form of Exhibit C attached hereto.

Section 6.3 – COMPLY WITH THE REGULATIONS. Comply with and be bound by the Lender's Brownfield statutes, Health and Safety Code sections 44500, et. seq., and Regulations pursuant to Section 8095(1) of the Regulations. Continued compliance with program requirements is Borrower's responsibility.

Section 6.4 – ACCOUNTING RECORDS. Maintain adequate books and accounts in accordance with generally accepted accounting principles, consistently applied.

Section 6.5 – EXISTENCE. Preserve and maintain its existence and all of its rights, privileges and franchises; conduct its business in an orderly, efficient, and regular manner; and comply with the requirements of all applicable laws, rules, regulations, and orders of a governmental authority.

Section 6.6 – TAXES AND LIABILITIES. Pay and discharge when due any and all indebtedness, obligations, assessments, taxes (real and personal), including Federal and state income taxes, provided that provision is made to the satisfaction of Lender for eventual payment thereof in the event that it is found that the same is an obligation of Borrower.

Section 6.7 – LITIGATION. Promptly give notice in writing to Strategic Partner of any administrative action or litigation pending or threatened against Borrower, the Brownfield or the Brownfield Project in which the amount claimed is in excess of five thousand dollars (\$5,000).

Section 6.8 – NOTICE TO STRATEGIC PARTNER. Promptly give notice in writing to Strategic Partner of: (1) any change in name of Borrower, and in the case of a corporation, partnership or joint venture, any change in name, identity or corporate status, or (2) any uninsured or partially uninsured loss through fire, theft, liability, or otherwise in excess of an aggregate of two thousand five hundred dollars (\$2,500).

Section 6.9 – RELEASE. Hereby waive all claims and recourse against Strategic Partner including the right to contribution for loss or damage to persons or property arising from, growing out of, or in any way connected with or incident to this Agreement, Borrower's use of the Loan proceeds, Borrower's Business operations, the Brownfield, or the Brownfield Project.

Section 6.10 – INDEMNIFICATION. Defend, indemnify and hold harmless the Lender, the Strategic Partner and the State, and all officers, trustees, agents and employees of the same, from and against any and all claims, losses, costs, damages, or liabilities of any kind or nature, whether direct or indirect, arising from or relating to the Loan, the Brownfield, the Brownfield Project or the Cal ReUSE Program, including but not limited to, any and all claims, losses, costs, damages, or liabilities arising from or related to the presence, release, threatened release, investigation or remediation of Hazardous Material of the Brownfield or the Brownfield Project. Borrower shall defend, indemnify, and hold Strategic Partner, Lender, the State, successors, assigns, its members, officials, directors, employees or agents of the same, harmless against any claims, demands, administrative actions, loss, litigation, liabilities, losses, remediation costs, damages, response costs, and penalties, including costs of legal proceedings and reasonable attorneys' fees, that any of the indemnified parties may incur as a result of any inaccuracy or breach of any representation, warranty, agreement, or covenant contained in this Agreement with respect to Hazardous Material, or as a consequence of any use, generation, manufacture, storage, release, or disposal (whether or not the Borrower knew of same) of any Hazardous Material.

occurring as a result of the Borrower's use or occupancy of the Brownfield or performance of the Brownfield Project. The provisions of this section shall survive termination of this Agreement.

Section 6.11 – COMPLIANCE WITH HAZARDOUS MATERIAL LAWS. Borrower will comply (a) with all Hazardous Waste Reporting Laws applicable to the Brownfield, the Brownfield Project, or resulting from the contents of the Final Report and (b) with all applicable laws, including but not limited to statutes, rules, regulations, administrative orders and agreements, and judicial orders or consent decrees that apply to the Brownfield or the Brownfield Project, related to or arising from assessment, characterization and remediation of a Brownfield, including but not limited to those requiring the preparation of a description of Hazardous Material on the Brownfield and those requiring oversight and supervision to assure the adequacy of any Feasibility Study, Remedial Investigation or Remedial Action Plan by the Oversight Agency.

Section 6.12 - RECOVERED DAMAGES. If the Borrower recovers damages from a person who is liable for the release, threatened release, presence or existence of a Hazardous Material at the Brownfield or as a result of the Brownfield Project, any money so recovered shall be used first to repay the Loan, except that the Borrower shall be permitted to retain fees and costs incurred in recovering the damages.

Section 6.13 – REFUNDABLE DEPOSITS. If the Loan is used to finance those Eligible Costs defined in Section 8090(k)(4), any money refunded to the Borrower shall be used first to repay the Loan.

Section 6.14 - NON-DISCRIMINATION CLAUSE. During the term of this Agreement, Borrower and its subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religion, creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (cancer or genetic characteristics), sexual orientation, political affiliation, position in a labor dispute, age, marital status, and denial of statutorily-required employment-related leave. Borrower and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Borrower and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code Section 12990 (a-f) et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Borrower and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.

ARTICLE VII - NEGATIVE COVENANTS

Borrower further covenants that so long as Borrower is indebted to Lender under this Agreement or the Note, and until payment in full of the Note issued hereunder, Borrower will not without prior consent of Strategic Partner:

Section 7.1 - USE OF FUNDS. Use any Loan proceeds for purposes other than as described in Exhibit A, the request for disbursement (without prior written consent of Strategic Partner), or for the Brownfield Project.

Section 7.2 - MERGER, CONSOLIDATION, SALE OF ASSETS. Merge, consolidate or otherwise alter Borrower's form of business, or acquire all or substantially all of the assets of any other corporation or entity; or sell, lease, assign, transfer, or otherwise dispose of more than 20% of control of Borrower's business assets to another person without prior written approval of Strategic Partner.

ARTICLE VIII – DEFAULT AND REMEDIES

Section 8.1 - EVENTS OF DEFAULT. Each of the following shall constitute an Event of Default under this Agreement:

- (a) Borrower's failure to make any payment when due under this Agreement or the Note;
- (b) If any material representation or warranty made by Borrower, or anyone acting on its behalf, hereunder shall prove to be incorrect in any material respect;
- (c) Borrower's failure to perform any other term or condition of this Agreement or other Loan Documents;
- (d) Borrower's failure to comply with any Hazardous Waste Reporting Law applicable to the Brownfield or Brownfield Project, including Hazardous Waste Reporting Laws that apply based upon the information set forth in a Final Report, or failure to deliver the certification required by Section 6.2 herein within the time period required;
- (e) Any substantial or continuous breach by Borrower of any material obligations of Borrower imposed by any agreements other than the Loan Documents with respect to the Brownfield or the Brownfield Project;
- (f) Borrower defaults on any other loan with Lender or the Strategic Partner;
- (g) The failure of Borrower to promptly pay and discharge any judgment or levy of attachment, execution or other process against the assets of Borrower, and such judgment is not satisfied, or such levy or other process be not removed within twenty (20) days after the entry or levy thereof;
- (h) Any bankruptcy action is filed against Borrower or Borrower shall be adjudicated a bankrupt or insolvent, or shall consent to or apply for the appointment of a receiver, trustee or liquidator of itself or any of its property, or shall admit in writing its inability to pay its debts generally as they become due, or shall make a general assignment for the benefit of creditors, or shall file a voluntary petition in or an answer seeking reorganization or arrangement in a proceeding under any bankruptcy law;
- (i) Borrower becomes the subject of an administrative, civil or criminal action that Lender believes may materially affect Borrower's ability pay the Note or adequately complete the Brownfield Project; or

- (j) Borrower reorganizes, merges, consolidates, or otherwise changes ownership without Strategic Partner's prior written consent.

Section 8.2 - NOTICE OF BORROWER'S DEFAULT AND OPPORTUNITY TO CURE. Strategic Partner shall give written notice to Borrower of any Event of Default by specifying: (a) the nature of the event or deficiency giving rise to the Event of Default, (b) the action required to cure the Event of Default, if an action to cure is possible, and (c) except for an Event of Default under Section 8.1(h), a date, which shall not be less than thirty (30) calendar days from the mailing of the notice, by which such action to cure must be taken, if an action to cure is possible, provided, however, except with respect to a monetary Event of Default, so long as Borrower has commenced to cure within such time, then Borrower shall have a reasonable period thereafter within which to fully cure the Event of Default.

Section 8.3 - LENDER'S REMEDIES. Upon the happening of an Event of Default, Lender's obligation to disburse Loan proceeds shall cease. Upon notice to Borrower of an Event of Default as provided for above, and, if an action to cure is specified in the notice, and Borrower's failure to cure the deficiency within a reasonable time period, as specified in the notice Lender may, in addition to other rights and remedies permitted by the Loan Agreement or applicable law, proceed with any or all of the following remedies in any order or combination Lender may choose in its sole discretion:

- (a) Lender may declare the entire outstanding principal amount of the Loan and all accrued interest thereon, as well as any other funds advanced to Borrower by Lender under the Loan Agreement, immediately due and payable;
- (b) Bring an action in equitable relief (1) seeking the specific performance by Borrower of the terms and conditions of the Loan Agreement, and/or (2) enjoining, abating, or preventing any violation of said terms and conditions, and/or (3) seeking declaratory relief;
- (c) Pursue any other remedy allowed at law or in equity.

Notwithstanding the above, in the event there is an Event of Default under Section 8.1(d), following the required notice and cure period, Lender shall exercise its remedy under 8.3(a).

Lender shall impose an interest rate penalty at a rate equal to ten percent (10%) per annum upon an Event of Default and Borrower's failure to cure within the timeframe specified in the notice described in Section 8.2.

Strategic Partner's or Lender's failure to declare an Event of Default, or pursue any of the abovementioned remedies in the Event of Default, does not waive Lender's right to declare an Event of Default or pursue any remedies herein provided. No remedy herein conferred upon or reserved to the Lender is intended to be exclusive of any other available remedy or remedies, but each and every such remedy, to the extent permitted by law, shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or otherwise. In order to entitle the Lender to exercise any remedy, to the extent permitted by law, reserved to it contained in this Agreement, it shall not be necessary to give any notice, other than such notice as may be herein expressly required.

ARTICLE IX - MISCELLANEOUS

Section 9.1 – CONSENT TO STRATEGIC PARTNER. Borrower acknowledges that during the term of this Agreement, unless otherwise notified by the Lender in writing, the Strategic Partner shall be acting as the Lender's agent and the Strategic Partner shall perform the acts required of the Lender in this Agreement.

Section 9.2 – CONFLICTS OF INTEREST. Borrower shall exercise due diligence to ensure that any member, officer, or employee of the Independent Consultant *[IF APPLICABLE]*, Strategic Partner or Lender, or a member of such person's immediate family, who exercises any decision making responsibilities or power with respect to the Loan, has not or will not obtain a material financial interest or benefit from the Loan, or any contract, subcontract or agreement with respect thereto or the proceeds thereunder.

Borrower warrants, represents and agrees to exercise due diligence to assure that no member, officer, director, or employee of Borrower, or any immediate family member of such person, who exercises any decision making responsibility or power with respect to the Loan has or will obtain a material financial interest or benefit from this Loan, or any contract, subcontract or agreement with respect thereto or the proceeds thereunder.

Borrower shall incorporate, or cause to be incorporated, in all contracts and subcontracts for work to be performed under this Agreement a provision prohibiting any conflict of interest described above in this section. Borrower's obligations under this section shall be deemed satisfied, if such persons and entities with which it contracts execute a certification as to such matters. *[ALSO INCLUDE FOR LOANS USED TO FINANCE ELIGIBLE COSTS DEFINED IN SECTION 8090(k)(1) AND/OR SECTION 8090(k)(3) OF THE REGULATIONS]*. Notwithstanding the above, Borrower shall provide a written certification concerning the Independent Consultant in substance and form of Exhibit D attached hereto.

Section 9.3 - TERM OF THIS AGREEMENT. This Agreement shall commence on the date set forth above and remain in full force and effect until the Loan has been repaid, unless sooner terminated by Lender. Notwithstanding the foregoing, Borrower's covenants under Sections 6.1, 6.2 (if applicable), 6.10, and 6.11 shall survive after repayment of the Loan and until such covenants are fully performed.

Section 9.4 - GOVERNING LAW. The Loan Documents shall be interpreted under and be governed by the laws of the State of California. The parties agree that venue is proper in the Superior Court of Sacramento County.

Section 9.5 - NO WAIVER. Any waiver by Lender of any obligation in this Note must be in writing. No waiver shall be implied from any failure of Borrower to take, or any delay or failure by Lender or Strategic Partner to take action on any breach or default or Event of Default by Borrower or to pursue any remedy allowed under this Agreement or applicable law. Any extension of time granted to Borrower to perform any obligation under this Note shall not operate as a waiver or release from any of its obligations under the Note. Borrower hereby waives all defenses and pleas on the grounds of any extensions of the time for repayment of any amounts due under this Note, unless Lender has granted such extensions in writing. Consent by Lender to any act or omission by Borrower shall not be construed to be a consent to any other act or omission or to waive the requirement for Lender's written consent to future waivers.

Section 9.6 - NOTICES. All notices, request and demands given to or made upon the respective parties shall be deemed to have been given or made when deposited in the mail, postage prepaid, and addressed as follows:

Borrower: ***BORROWER NAME***
ADDRESS
Attn: ***CONTACT PERSON***

Lender: ***STRATEGIC PARTNER***
ADDRESS
Attn: ***CONTACT PERSON***

Section 9.7 - ATTORNEY'S FEES. In the event of any Event of Default, or any legal action is commenced to interpret or to enforce the terms of this Agreement, the prevailing party in any such action shall be entitled to recover all reasonable attorneys' fees and costs incurred in such action. In addition, Borrower agrees to pay Lender all reasonable costs incurred in collection of amounts due under this Note which are not paid within ten (10) days of the due date as specified herein, whether or not a legal action has been filed.

Section 9.8 - LENDER'S, OR STRATEGIC PARTNER'S RIGHT TO INSPECT RECORDS. Borrower is required to maintain adequate books, accounts, and records and to prepare all financial statements required under this Agreement in accordance with generally accepted accounting principles and practices consistently applied, and in compliance with the regulations of any governmental regulating body having jurisdiction over it, and permit employees or agents of Lender or the Strategic Partner, at any reasonable time, to inspect Borrower's properties, and/or to examine Borrower's books, accounts, records and make copies and memoranda of them. These records shall include employment information records as well as business and financial records.

Section 9.9 - BINDING UPON SUCCESSORS. All provisions of this Agreement shall be binding upon and inure to the benefit of the heirs, administrators, executors, successors-in-interest, transferee, and assigns of each of the parties; provided, however, that this section does not waive the prohibition on assignment of this Agreement by Borrower without Lender's consent. The term "Borrower" as used in this Agreement shall include all assigns, successors-in-interest, and transferee of Borrower.

Section 9.10 - RELATIONSHIP OF PARTIES. The relationship of Borrower and Lender for the Brownfield Project and this Loan is and shall remain solely that of a debtor and a creditor, and shall not be construed as a joint venture, equity venture, partnership, or any other relationship. Lender neither undertakes nor assumes any responsibility or duty to Borrower (except as provided herein) or to any third party with respect to Borrower, the Brownfield, Brownfield Project or the Loan. Borrower shall have no authority to act as an agent of Lender or to bind Lender to any obligation.

Section 9.11 - ASSIGNMENT AND ASSUMPTION. Borrower shall not assign any of its interests under this Agreement or the Loan Documents to any other party, except as specifically permitted under the terms of this Agreement or the Loan Documents, without the prior written consent of Lender. Any unauthorized assignment shall be void.

Section 9.12 - AMENDMENTS AND MODIFICATIONS. Any amendments or modifications to the Loan Documents must be in writing, and shall be effective only if executed by both Borrower and Lender.

Section 9.13 - TIME. Time is of the essence in this Agreement.

Section 9.14 - INTEGRATION. This Agreement and the Note contain the entire agreement of the parties and supersede any and all prior negotiations.

Section 9.15 - SEVERABILITY. If any provision of this Agreement shall be held invalid, illegal or unenforceable by a court of competent jurisdiction, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired by such holding.

Section 9.16 - EXECUTION OF COUNTERPARTS. This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument; provided, however, that only the counterpart delivered to the Strategic Partner shall be deemed the original.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in day and year first hereinabove written.

BORROWER:

BORROWER NAME

By: _____

CONTACT NAME, CONTACT TITLE

LENDER:

STRATEGIC PARTNER ON BEHALF OF CPCFA

By: _____

Exhibit A

Brownfield Location:

[INSERT PROPERTY ADDRESS]

Brownfield Project

[INSERT GENERAL DESCRIPTION]

Eligible Costs

[PROVIDE A DETAILED LISTING OF ACTIVITIES AND ASSOCIATED COSTS INCLUDING SERVICING FEES WHICH WILL BE CHARGED AS FOLLOWS:***SERVICING FEE. BORROWER SHALL PAY AN AMOUNT EQUAL TO ONE HUNDRED DOLLARS (\$100.00) FOR THE TRUSTEE'S SERVICING FEE AND AN AMOUNT EQUAL TO FIFTY DOLLARS (\$50.00) FOR EACH DRAW AGAINST THE LOAN.]***

Match

[PROVIDE A DETAILED DESCRIPTION OF THE REQUIRED 25%, OR GREATER, MATCH THAT INCLUDES THE NAME(S) OF EACH ENTITY PROVIDING MATCH AND ITS ASSOCIATED PERCENTAGE(S) AND DOLLARS AMOUNT(S)]

Exhibit B**REQUEST FOR DISBURSEMENT OF LOAN PROCEEDS**

Date

Strategic Partner Addressee

Trustee Addressee

RE Request for Disbursement of Loan Proceeds of ***BORROWER NAME*** ("Borrower")

CONTACT NAME, CONTACT TITLE requests the following disbursement of proceeds from the Strategic Partner as allowed by the Loan Documents

- 1) The name and address of the entity to whom the payment is due
- 2) The purpose(s) for which such payment is to be made.
- 3) The amount to be paid
- 4) Indication of amount(s) to be paid from Match and/or Loan fund
- 5) Indication of amount(s) to be paid into the Program Fund for the Trustee's servicing fee and/or draw fee.
- 6) The date that the funds are needed
- 7) Borrower represents and warrants that each disbursement mentioned herein is a proper draw against the fund indicated
- 8) Borrower represents and warrants that Borrower has not exceeded that maximum allowable amount of disbursement of Match and Loan proceeds as defined in Exhibit A of the Loan Agreement.
- 9) Borrower represents and warrants that each disbursement mentioned herein is for an Eligible Cost as defined in the Loan Agreement.
- 10) Borrower represents and warrants that each obligation mentioned herein has been properly incurred and is a proper charge against the Loan
- 11) Borrower represents and warrants that none of the items for which payment is requested has been previously paid by the Loan.
- 12) Borrower represents and warrants that each item for which payment is requested is or was necessary in connection with the Brownfield Project
- 13) Every capitalized term has the meaning defined in the Loan Agreement.

BORROWER:***BORROWER NAME***

By: _____

CONTACT NAME, CONTACT TITLE**STRATEGIC PARTNER APPROVAL:*****STRATEGIC PARTNER NAME***

By: _____

CONTACT NAME, CONTACT TITLE

Exhibit C**FINAL REPORT CERTIFICATION**

Date

Strategic Partner Addressee

RE: Final Report Certification of **BORROWER NAME** ("Borrower")

CONTACT NAME, CONTACT TITLE makes the following certification to the Strategic Partner under penalty of perjury as required by the Loan Documents and Section 8095(p) of the Regulations:

- 1) Borrower is informed of and understands all Hazardous Waste Reporting Laws applicable to the Brownfield and the contents of the Final Report;

[SELECT EITHER 2a) OR 2b)]

- 2a) Borrower identified no reporting requirements under any of the Hazardous Waste Reporting Laws applicable to the Brownfield and the Brownfield Project or resulting from the contents of the Final Report; or
- 2b) Borrower identified a reporting requirement under a Hazardous Waste Reporting Law that is applicable to the Brownfield [and/or] the Brownfield Project including Hazardous Waste Reporting Laws that apply based upon the information set forth in the Final Report.

[SELECT EITHER 3a) OR 3b)]

- 3a) Borrower certifies that it has made all the reports required by the Hazardous Waste Reporting Laws applicable to the Brownfield [and/or] the Brownfield Project including Hazardous Waste Reporting Laws that apply based upon the information set forth in the Final Report; or
- 3b) Borrower certifies that there are no reports required by the Hazardous Waste Reporting Laws applicable to the Brownfield [and/or] the Brownfield Project including Hazardous Waste Reporting Laws that apply based upon the information set forth in the Final Report; and
- 4) ~ **[If applicable]** Borrower certifies that it reported to **[AGENCY NAME]** on **[DATE]**.
- 5) Every capitalized term has the meaning defined in the Loan Agreement.

BORROWER:**BORROWER NAME**

By: _____

CONTACT NAME, CONTACT TITLE

Exhibit D**INDEPENDENT CONSULTANT CERTIFICATION**

Strategic Partner Addressee

RE Independent Consultant Certification of **BORROWER NAME** ("Borrower")

CONTACT NAME, CONTACT TITLE makes the following certification to the Strategic Partner as defined in the Loan Documents

INDEPENDENT CONSULTANT Name meets the following criteria defined in Sections 8090(h) and 8090(u) of the Regulations including:

- (a) The Independent Consultant is **[PROVIDE THE DESCRIPTION FOR (a) USING (1)-(4) BELOW, AS APPLICABLE]**
 - (1) A Class II environmental assessor registered by the Office of Environmental Health Hazard Assessment pursuant to Chapter 6.98 (commencing with Section 25570) of Division 20 of the California Health and Safety Code;
 - (2) A professional engineer registered in this State;
 - (3) A certified engineering geologist registered in this State; or
 - (4) A licensed hazardous substance contractor certified pursuant to Chapter 9 (commencing with Section 7000) of Division 3 of the California Business and Professions Code. A licensed hazardous substance contractor shall hold the equivalent of a degree from an accredited public or private college or university or a private postsecondary educational institution approved by the Bureau for Private Postsecondary and Vocational Education with at least 60 units in environmental, biological, chemical, physical, or soil science; engineering; geology, environmental or public health, or a directly related science field
- (b) The Independent Consultant has at least **[INSERT NUMBER OF YEARS—MUST BE THREE YEARS OR MORE]** years experience in conducting site assessment and characterization, and
- (c) The Independent Consultant meets all of the following requirements.
 - (1) The Consultant is not an employee of, general or a limited partner or a shareholder in, or have any other ownership or management interest in the Borrower, a known responsible party, or a prospective buyer of the Brownfield;
 - (2) Consultant does not receive any source of income from the Borrower, a known responsible party, or a prospective buyer of the Brownfield, other than the payment of fees for professional services unless the Consultant is acting in his or her capacity as an employee of a governmental entity; and
 - (3) The Independent Consultant does not accept, or agree to accept, any payment that is in any way contingent upon the outcome of a Final Report

BORROWER:

BORROWER NAME

By: _____

CONTACT NAME, CONTACT TITLE

AGREEMENT NUMBER CPCFA02-06

EXHIBIT G

PROMISSORY NOTE

CALIFORNIA RECYCLE UNDERUTILIZED SITES (Cal ReUSE) PROGRAM

BORROWER NAME
BORROWER ADDRESS

###.###

DATE:

FOR VALUE RECEIVED, **BORROWER NAME** ("Borrower") hereby promises to pay to the order of the California Pollution Control Financing Authority, a State agency, whose address is 915 Capitol Mall, Room 457, Sacramento, CA 95814 ("Lender"), the principal amount equal to **NUMBER AND NO/100 DOLLARS (\$###.###)** ("Loan") or so much as may be advanced by Lender to Borrower ("the Loan") pursuant to the loan agreement dated _____, 20--, between Borrower and Lender (the "Loan Agreement"), together with interest at the fixed rate of **NUMBER percent(###%)** per annum until the Loan is paid in full. The obligation of Borrower and Lender with respect to all such advances is subject to the terms of:

- (a) The Application;
- (b) The Loan Agreement; and
- (c) This Note.

1. LOAN TERM. Principal and interest shall become due and payable in full upon the earliest of:

- (a) DATE (maturity), not to exceed 36 months from the date hereof;
- (b) Issuance of either a grading permit or a building permit for the Brownfield;
- (c) Sale or transfer (including, without limitation, an option to purchase or a contract of purchase) of all or part of the Brownfield;
- (d) The occurrence of an Event of Default under the Loan Agreement and Borrower's failure to cure within the time specified, if any.

2. INTEREST RATE. The interest on the Loan shall accrue at a fixed interest rate of **### percent(###%)** per annum. Interest shall accrue on the outstanding principal amount from the date of each advance hereunder until this Note is paid in full. Interest will be charged on a 365-day year basis, charged for actual days elapsed. In the event there is an Event of Default on the Loan the Lender shall impose an interest rate penalty at a rate equal to ten percent (10%) per annum.

3. PREPAYMENT OF LOAN. Borrower may prepay any amounts due on the Loan at anytime without incurring a prepayment penalty.

4. PLACE AND MANNER OF PAYMENT. All amounts due and payable under this Note and the Loan Agreement are payable at the office of the Trustee as set forth below:

Insert Trustee Name

Contact Person
Address

or at such other place as Lender may designate to Borrower in writing from time to time, in any currency of the United States which on the date of payment is legal tender for the payment of public and private debts.

5. APPLICATION OF PAYMENTS. All payments received on account of this Note shall be first applied to accrued interest to the day Lender receives the payment, then to bring principal current, and the remainder, if any, shall be applied to the reduction of principal except that if Lender shall have made additional advances under the terms of the Loan Documents and such advances have not been repaid, any payments received by Lender, at its option, may be applied first to the repayment of such advances and interest thereon.

6. WAIVERS. Presentment, notice of dishonor, and protest are waived by all makers, sureties, guarantors, and endorsers of this Note.

7. DEFAULT AND ACCELERATION. Borrower agrees that the outstanding principal balance of this Note, together with all accrued interest thereon and charges owing, shall, at the option of Lender, become immediately due and payable upon any Event of Default as defined in the Loan Agreement, including without limitation the failure of Borrower to make any payment when due. Upon any Event of Default, Lender may exercise any other right or remedy permitted under the Loan Documents or applicable law.

8. CONSENTS AND APPROVALS. Any consent or approval required under this Note shall not be unreasonably withheld.

9. NOTICES. Any notices, communications, or demands shall be in writing and may be communicated to Lender or Borrower at the addresses set forth in the Loan Agreement.

10. BINDING UPON SUCCESSORS. All provisions of this Note shall be binding upon the heirs, administrators, executors, successors-in-interest, transferees, and assigns of Borrower and shall inure to the benefit of Lender and Lender's successors and assigns.

11. ASSUMPTION. Borrower's obligations under this Note are not assumable.

12. DEFINITIONS. Capitalized terms not defined in this Note shall have the same meaning as defined terms in the Loan Agreement.

13. GOVERNING LAW. This Note shall be interpreted under and governed by the laws of the State of California and venue is proper in the Superior Court of Sacramento County.

14. LOAN AGREEMENT CONTROLS. In the event that any provisions of this Note and the Loan Agreement conflict, the terms of the Loan Agreement shall control.

15. SEVERABILITY. Every provision of this Note is intended to be severable. If any provision of this Note is held invalid, illegal, or unenforceable by a court of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions shall not be affected or impaired.

16. TIME. Time is of the essence in this Note.

17. WAIVER. Any waiver by Lender of any obligation in this Note must be in writing. No waiver shall be implied from any failure of Borrower to take, or any delay or failure by Lender

to take action on any breach or default or Event of Default by Borrower or to pursue any remedy allowed under this Note or applicable law. Any extension of time granted to Borrower to perform any obligation under this Note shall not operate as a waiver or release from any of its obligations under the Note. Borrower hereby waives all defenses and pleas on the grounds of any extensions of the time for repayment of any amounts due under this Note, unless Lender has granted such extensions in writing. Consent by Lender to any act or omission by Borrower shall not be construed to be a consent to any other act or omission or to waive the requirement for Lender's written consent to future waivers.

18. AMENDMENTS AND MODIFICATIONS. Any amendments or modifications to this Note must be in writing, and shall be effective only if executed by both Borrower and Lender.

Executed at *CITY NAME*, California, on _____, 20----

BORROWER NAME

By : _____

CONTACT NAME, CONTACT TITLE

AGREEMENT NUMBER CPCFA02-06

EXHIBIT H

LOAN FORGIVENESS AGREEMENT

CALIFORNIA RECYCLE UNDERUTILIZED SITES (Cal ReUSE) PROGRAM

BORROWER NAME
BORROWER ADDRESS

THIS LOAN FORGIVENESS AGREEMENT (this "Agreement") is entered into as of _____, 20__ by and between _____ [Borrower] ("Borrower") and the California Pollution Control Financing Authority (the "Authority").

RECITALS

- A. Borrower is indebted to the Authority under that certain Promissory Note dated _____, 20__, in the original principal amount of \$ _____ (the "Note"), evidencing a loan by the Authority in that amount for the purpose of financing the brownfield project (the "Brownfield Project") on that certain real property (the "Brownfield"), as more specifically set forth in that certain Loan Agreement entered into between the Borrower and _____ [Strategic Partner] _____, on behalf of the Authority, of even date with the Note.
- B. The amount due and owing on the Note as of the date of this Agreement is \$ _____, which sum includes the principal amount of \$ _____ (the "Balance of the Note"), and accrued and unpaid interest and fees of \$ _____.
- C. Borrower, acting reasonably and in good faith, has been unable to complete the Brownfield Project or the development of the Brownfield and has requested that the Authority forgive repayment of the Note.
- D. The Authority is willing to forgive repayment of the Note, on the conditions set forth below.

AGREEMENT

In consideration of the foregoing Recitals and for other valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Authority and Borrower agree as follows:

- 1. In consideration of (a) Borrower's execution and delivery of this Agreement, and (b) Borrower's promises and agreements set forth in Paragraph 2, below, the Authority agrees to forgive the Balance of the Note.
- 2. In consideration of the Authority's forgiveness of the Balance of the Note as set forth in Paragraph 1, above, Borrower acknowledges the truth and accuracy of the Recitals and further promises and agrees that:
 - a. If either a grading permit or a building permit is issued for the Brownfield within twenty five (25) years of the date of this Agreement while either Borrower or a party related to Borrower has a legal or equitable interest in the Brownfield, Borrower will immediately pay to the Authority a sum equal to the Balance of the Note.

- b. If Borrower sells or transfers (including, without limitation, an option to purchase or a contract of purchase) all or part of the Brownfield within twenty five (25) years of the date of this Agreement, Borrower will immediately pay to the Authority a sum equal to the Balance of the Note.
- c. If Borrower recovers damages from a person who is liable for the release, threatened release, presence or existence of any hazardous material (as defined by California Health and Safety Code Section 25260(d), as amended) at the Brownfield within twenty five (25) years of the date of this Agreement, any money so recovered, up to the amount of the Balance of the Note, shall be immediately paid to the Authority, except that Borrower shall be permitted to retain fees and cost incurred in recovering the damages.

Executed as of the date first set forth above.

BORROWER:

THE AUTHORITY:

California Pollution Control Financing Authority

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____